

Volume 1

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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

Before The Honorable Charles R. Breyer, Judge

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
VS.	)	NO. CR 17-00387 CRB
	)	
AMER SINAN ALHAGGAGI,	)	
	)	
Defendant.	)	
_____	)	

San Francisco, California  
Monday, December 17, 2018

**TRANSCRIPT OF PROCEEDINGS**

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**ATTORNEYS AT LAW**

Also Present: **Special Agent David Peacock, FBI**  
**Catheryn Grier, U.S. Probation**

Reported By: Jo Ann Bryce, CSR No. 3321, RMR, CRR, FCRR  
Official Reporter

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P R O C E E D I N G S

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**THE CLERK:** Calling Criminal Action CR 17-0387, U.S.A. versus Amer Sinan Alhaggagi.

**MR. HASIB:** Good morning, Your Honor. Waqar Hasib for the United States; and just for the Court's information, seated with me at counsel's table is Special Agent David Peacock of the FBI.

**THE COURT:** All right. Good morning.

**MS. McNAMARA:** Good morning, Your Honor. Mary McNamara for Mr. Alhaggagi, who is before you in custody.

**MR. GUGELMANN:** Good morning, Your Honor. Alex Gugelmann also for Mr. Alhaggagi.

**THE COURT:** So this is the time set for sentencing and, of course, the Court has received about a foot of filings in connection with sentencing; and the way I'd like to proceed is I understand there's going to be testimony, and so I'd like to hear the testimony first and then address the guideline issues, and then after that address nonguideline issues. We'll just see where we go from there.

Obviously the guideline issues turn, I think almost exclusively, on the question of whether the 12-level enhancement is appropriate in connection with an act of terrorism, and I'd like -- the Government has filed an

1 objection to the Presentence Report on that issue and thinks it  
2 should be included -- or should be applied in this case.

3 There are two aspects of the terrorism. One dealing  
4 with -- and actually the parties have sort of dealt with the  
5 first part. Let me get it.

6 (Pause in proceedings.)

7 **THE COURT:** It's 3A1.4 is the guideline issue, and the  
8 question is whether the offense was calculated to influence or  
9 affect the conduct of government by intimidation or coercion;  
10 and that's been addressed, I think, by the parties.

11 But there's a second part, "or to retaliate against  
12 government conduct." And why that's interesting to the Court  
13 is that given the offense of conviction, given the defendant's  
14 plea in which he stated that he put people in touch with the  
15 ISIS websites -- I'm talking generally; I'm sure there was some  
16 imprecision -- whether that would or would not be an act of  
17 terrorism in that ISIS is committed to attacking -- I don't  
18 know what the right word here is -- or defeating or impairing  
19 the United States in connection with its purposes in ensuring  
20 peace in connection with global activities.

21 That's not precise, but I'm trying to see whether does it  
22 fit within Category I, does it fit within Category II, because  
23 it must fit in one or the other in order for the 12-level  
24 enhancement to be applied.

25 And obviously the 12-level enhancement, in terms of

1 sentencing, makes a big difference, not only in terms of the  
2 offense level but in terms of criminal history.

3 And so I would also like some discussion about whether,  
4 notwithstanding the guideline, which would put him in Criminal  
5 History Category VI, he should be considered for a departure  
6 because his criminal history is overstated by putting him in  
7 Category VI when, in fact, absent that, he would be in Criminal  
8 History Category I.

9 So it's sort of a double punishment. And does it address  
10 the real issues of criminal history? You know, is there  
11 evidence of -- putting it another way, let me just say this.

12 Criminal history is a very good, not perfect, indicator of  
13 a likelihood of recidivism; that is, committing another crime.  
14 It's perhaps the most reliable indicator that the Sentencing  
15 Commission has found over time to predict behavior in the  
16 future; and we have found with some exceptions, but very few  
17 exceptions, that the higher the criminal history, the greater  
18 the likelihood is of future dangerousness or recidivism.

19 So then you have a guideline that comes along and says,  
20 "Look, if he commits this type of act, we're just going to put  
21 him in Criminal History Category VI." And the question is: Is  
22 there any evidence to support that other than the guideline  
23 itself which requires it?

24 Because logically if a person commits a terrible offense,  
25 you then give an offense level which reflects that awful

1 offense, and that's exactly what's done with every other  
2 offense. That's why terrorism is very high and why shoplifting  
3 or some smaller offense is low, is because of the dangerousness  
4 of the offense.

5 But then to come along and say it's dangerous and so we  
6 give it a very high offense level and, by the way, we give a  
7 Criminal History Category up to VI, the question is, of course:  
8 What evidence is there to suggest that the criminal history of  
9 somebody who commits this offense should be put at the highest  
10 level? There may be evidence, there may not. I don't know.  
11 That's something that we need to discuss.

12 Okay. So this is going to be a little bit lengthy, I  
13 apologize for that, but it's a serious matter. And it's not  
14 just serious for -- obviously it's serious for the defendant.  
15 Every criminal sentencing is serious for the defendant. But  
16 it's also serious because a sentence of this type for these  
17 offenses is particularly significant as both a general  
18 deterrence and a specific deterrence, which under 3553(a) of  
19 factors that the Court must consider, that is one of the  
20 factors.

21 So the question is: Somebody who does something of the  
22 type of which the defendant has pled guilty, what message does  
23 one send? This Court is always concerned about, quote,  
24 "sending messages" because that's not necessarily the role of a  
25 Court. The Court is to give an individualized sentence.

1 But, on the other hand, it's naive to believe that a case  
2 that has a certain degree of notoriety, which this one does,  
3 would not inform the judgment of other people who are subjected  
4 to the criminal justice system or who live in this country what  
5 penalties are associated with this type of behavior. So I'm  
6 mindful of that. I think it's a serious job.

7 It does fall to every district judge to participate in  
8 this system. While it's difficult, it is important and is  
9 significant, and I don't mean to elevate the role of the  
10 judiciary, but it does fall to judges to try to make these very  
11 human and difficult decisions. So I want to take some time and  
12 I want to give both sides the opportunity to present anything  
13 they want in connection with these particular issues. So if it  
14 takes longer than today, it takes longer than today, and I  
15 don't feel anybody should feel the press of time to try to go  
16 forward on this. Okay?

17 All right. So with that, how do you want to proceed? Do  
18 you have some agreement, or what will be the easiest way to  
19 proceed?

20 **MR. HASIB:** Your Honor, may I have a moment just to  
21 talk with counsel for a second?

22 **THE COURT:** Of course. Okay.

23 And, Mr. Alhaggagi, if you'd like to be seated, you may.  
24 You don't have to stand through this.

25 **THE DEFENDANT:** Thank you, Your Honor.

1           **MR. HASIB:** Your Honor, I think the outline that the  
2 Court has presented makes ample sense given the significance of  
3 this case. I think it makes sense to hear from -- the one  
4 witness who's going to be presented today I think is a Defense  
5 expert, Dr. Marc Sageman.

6           Before that happens, though, I think there's one issue  
7 that the parties would like to take up because it may impact --  
8 certainly it will impact my cross-examination of Dr. Sageman,  
9 and that is the issue of some information provided by jailhouse  
10 informants.

11           This was described with some generalization. I did not go  
12 into any substance of the nature of the allegations from the  
13 informants in the Government's sentencing memorandum, and that  
14 was largely by design.

15           Counsel and I had spoken beforehand about the information  
16 that these informants had provided about Mr. Alhaggagi's  
17 conduct post-arrest. Counsel who's -- frankly, her judgment I  
18 appreciate it greatly and when she said she was very worried  
19 that I would put these allegations out in public proceedings in  
20 a sentencing memorandum, I took that to heart. So that's why  
21 in our sentencing memorandum I didn't describe them in any  
22 detail. I simply said "We have stuff that happened  
23 post-arrest." And the Court has seen the allegations because  
24 they were filed under seal.

25           So I think before we go forward with Dr. Sageman's



1 testimony, I know Ms. McNamara would certainly like to be heard  
2 about whether that information post-arrest from the jailhouse  
3 ought to be something that's heard.

4 **THE COURT:** Okay. Well, let me -- I can give you some  
5 tentative thoughts or --

6 **MS. McNAMARA:** Thank you.

7 **THE COURT:** -- I can listen to what you have to say.

8 **MS. McNAMARA:** Please.

9 **THE COURT:** Okay. First of all, I think that it's  
10 relevant for two reasons. Number one, it supports the  
11 Government's position that the defendant is not entitled to a  
12 third point for acceptance of responsibility; that is to say,  
13 whether in the normal course a third point is given when a  
14 defendant pleads guilty. It's not in this case. And I think  
15 in part, as I understood it, the justification -- not that the  
16 Government needs a particular justification. I don't know what  
17 it is because it's a motion that has to be made by the  
18 Government in any event. The Court can't do it. Defense  
19 counsel can't do it. But I don't think the Government can act  
20 arbitrarily in that manner. Nevertheless, it does support the  
21 Government's position that a third point is not warranted.

22 I don't know, Ms. McNamara, whether you want to take the  
23 position that it is warranted; that is, the Government should  
24 have made the motion, that it's arbitrary, and we would have to  
25 adjudicate that. But I took that as some significance -- some

1 justification for not doing it.

2 Secondly, I think it does go to the issue of future  
3 dangerousness. That is to say, it is the Government's position  
4 that the defendant is dangerous as demonstrated by his  
5 activities post-arrest.

6 I guess was it post-plea or post-arrest?

7 **MS. McNAMARA:** Post-arrest.

8 **MR. HASIB:** It was post-arrest, pre-plea.

9 **THE COURT:** Pre-plea. Okay. So to that extent I  
10 think it's relevant.

11 Now, I understand that the argument is that that  
12 information about the post-arrest conduct is of questionable  
13 reliability. So I don't know at this point, and I have to hear  
14 from counsel, to what end -- what would we accomplish by having  
15 a hearing on that, an airing of that?

16 I understand the Government's position is that there are  
17 some sensitive matters; is that correct? Maybe it's the  
18 Defense position as well. I don't know whether that's true,  
19 but I haven't thought it all through so I have to see how  
20 significant it appears.

21 I don't -- at this point I think I have to know more about  
22 what the other justifications are for the Government's position  
23 that the defendant is dangerous to make that judgment because  
24 it's a piece. Is it a small piece? Is it they say, "Well,  
25 look, we normally wouldn't think he's so dangerous except for

1 this"?

2 And only Government counsel can make that determination  
3 based upon how you view the entirety of the case so I leave  
4 that to you. But it is something that the Court would consider  
5 if the Government thinks it's of such significance that I ought  
6 to take it into account.

7 Ms. McNamara?

8 **MS. McNAMARA:** Thank you, Your Honor. I appreciate  
9 the Court's thoughts.

10 Let me turn to the issue of future dangerousness. If the  
11 Court puts any weight on these allegations at all -- and we  
12 have moved to strike them in their entirety from the PSR and  
13 from the Court's consideration -- the Government simply has to  
14 call these people. This is the time for sentencing. The case  
15 law is very clear that if you've got informant testimony, it's  
16 got to be presented. The indicia of reliability have to be  
17 there unless the actual informant comes in and testifies.

18 And the Government's view is the indicia of reliability  
19 are present because -- and we're really talking about mainly  
20 one informant who I believe is known to the Court. We'll call  
21 him Informant Number 1.

22 Informant Number 1 knew that our client had a Gmail  
23 address and knew what it was, and he also knew that our client  
24 was proficient or skilled in using the online application  
25 Telegram, which is at the heart of the case.

1       Those two things don't go to the rather sensational  
2       allegations Informant Number 1 makes about a subsequent action.  
3       They simply verify that he knew something about our client's  
4       case. And, indeed, we have no dispute about that. He did it.

5       Our client consulted him as a jailhouse lawyer. Informant  
6       Number 1 is in his 50s. Our client at the time was 21. Our  
7       client was new to the jail. He had just been arrested. He had  
8       been presented with a Plea Agreement that asked him to adopt  
9       certain enhancements that are before the court today -- namely,  
10      the terrorism enhancement -- and in that context our client  
11      reaches out to this jailhouse informant.

12      Our client did write a letter as is described by Informant  
13      Number 1. The contents of the letter are misrepresented in our  
14      view, but certainly our client gave Informant Number 1 through  
15      that letter the e-mail address, and he knew -- Informant  
16      Number 1 knew all about the allegations against our client.

17      So to suggest that the mere possession of the e-mail  
18      address and Informant Number 1's knowledge that our client was  
19      proficient in Telegram says nothing other than that our client  
20      told him about what he was in for.

21      And, by the way, our client was notorious in the jail. He  
22      went by the moniker, according to the other inmates, "The  
23      Terrorist," although he never called himself that.

24      So that is why this is of such concern. We have said to  
25      the Government in advance, weeks in advance, "Please call these

1 informants. We want to cross-examine them and so that the  
2 Court can have a full airing of how reliable these informants  
3 are."

4 Informant Number 1, in reference to the Court's earlier  
5 remarks about criminal history, has a Criminal History  
6 Category VI, the highest criminal history category under the  
7 guidelines. He's a repeat recidivist. He got a benefit as a  
8 result of his cooperation here against our client; and the  
9 benefit, while it may not appear to be a large one, was to him  
10 a large one because it excused him from further supervision by  
11 the court, which was very inconvenient to Informant Number 1  
12 because he couldn't keep a straight record on supervision. He  
13 was repeatedly not giving his probation officer his address.  
14 He flunked out of drug treatment. He didn't even report to  
15 drug treatment. He went AWOL on numerous occasions. Those are  
16 important benefits to Informant Number 1.

17 Informant Number 2, also criminal history got a 5K  
18 departure of two levels, which was significant for him in  
19 sentencing.

20 Both of these men got benefits, and there were no indicia  
21 of reliability other than their intrinsic statements that the  
22 Court can rely on here.

23 The law in that circumstance is clear. The *McGowan* case,  
24 which we have cited to the Court, says in a case that had far  
25 more indicia of reliability than either one of these gentlemen,

1 where an informant was subjected to cross-examination under  
2 oath in a separate proceeding that was connected to  
3 Mr. McGowan's case, the Court rejected reliance on that at  
4 sentencing because Mr. Seevers, the informant, had a motivation  
5 to lie, although there's nothing in the record about what  
6 benefit he received; he was not subjected to cross-examination  
7 in the proceeding; and his indicia of reliability went far  
8 further than either of these two gentlemen. Mr. Seevers knew  
9 where Mr. McGowan lived, he knew his address, and he could  
10 describe his home and, yet, the Court said that proves nothing  
11 other than he knows where he lives.

12 So in that case the *McGowan* court refused to rely on  
13 Seevers, the informant, to say that Mr. McGowan had done  
14 methamphetamines with him and imported them into the jail.

15 I can't think of how that can be squared here in a case  
16 where we've set aside a full day for argument where the  
17 Government has refused to call either of these gentlemen and  
18 where I can tell the Court both of them are incarcerated at  
19 institutions that are readily available and accessible to the  
20 Government.

21 In terms of the third point, of course the Court's  
22 correct. I can't move the Court nor can the Court sort of  
23 *sua sponte* award the third point to our client here, but that's  
24 different from the Government's relying on this very  
25 late-submitted informant testimony to deny it.

1 And I just want to underline to the Court the  
2 circumstances for how this all came up. These informants gave  
3 their stories to the Government a year and a half ago. The  
4 Government produced the discovery that it has submitted to the  
5 Court almost at the same time.

6 When it came time for sentencing and submission to the  
7 Probation Department, the Government gave a very detailed, very  
8 well-written narrative of the offense, and it included not  
9 just, of course, the ISIS Telegram behavior, it also included  
10 all of the terrible things our client said to the undercover  
11 agent and the confidential informant, everything about his  
12 lifestyle, everything about the identity theft. It went on for  
13 pages and pages and, yet, not a single clause in that multipage  
14 statement reflected this information about either one of the  
15 informants.

16 And the Government produced 4,000 pages of discovery to  
17 the Probation Office. Embedded in that was this material. It  
18 was not called out to the probation officer. We did not call  
19 it out to the probation officer in response because we assumed  
20 the Government simply thought these guys were unreliable.

21 Our client didn't speak about it at his interview. The  
22 probation officer had no chance to do any due diligence on it,  
23 neither did we. And after the draft Presentence Report comes  
24 out, now the Government says this is extraordinarily important  
25 and the Court must certainly rely on it to deny it, just not

1 the third point, but the entirety of the acceptance of  
2 responsibility, and argues that our client is dangerous on the  
3 basis of it.

4 That's just not how the game is played, and here the Court  
5 has to hear from these individuals if they're going to be  
6 relied on.

7 So the Government is late. They didn't follow proper  
8 procedure. The Court should strike it.

9 **THE COURT:** Well, here we go. The real issue -- I  
10 think that -- I think Ms. McNamara is correct as to the  
11 procedure. That is to say, under 6A1.3, if it is a factor that  
12 is important to the Court's sentencing, it has to have  
13 sufficient indicia of reliability to support its probable  
14 accuracy. That's what 6A1.3 provides. So that's a correct  
15 statement of the law, and I would -- I don't want to be  
16 reversed on not following the law. I have to follow the law  
17 obviously.

18 So I think -- but I think the judgments remain with the  
19 Government; that is, you either want me to consider it or you  
20 don't. And if you do, for what purpose? And once the  
21 Government makes those elections, then we know how to proceed.

22 You know, I don't think you -- you can wait on that a bit  
23 because I want to hear from the -- well, I want to hear from  
24 the witness who came out here this morning, but I think that's  
25 one of the points to address and I'll leave it up to you how



1 you want to address it.

2 In other words, I don't -- I'm not asking you now to say,  
3 "Look, we want you to consider it" or "We don't want you to  
4 consider it." "We believe it to be reliable." "We don't need  
5 a hearing." "We do need a hearing." I think we do need a  
6 hearing if I'm to consider it. That's the Defense point.

7 **MR. HASIB:** That is the Defense point. That is not  
8 the Government's point obviously. I think 18 U.S.C. 3661 is  
9 crystal clear. The Court can --

10 **THE COURT:** Wait a minute.

11 **MR. HASIB:** Sure.

12 (Pause in proceedings.)

13 **THE COURT:** I always like to hear that something's  
14 crystal clear. It hasn't been my experience --

15 **MR. HASIB:** It's not always the case in Title 18,  
16 Your Honor, but this one is pretty clear.

17 **THE COURT:** Okay. This one's clear.

18 **MR. HASIB:** 3661, Use of Information for Sentencing.

19 **THE COURT:** No limitation, right.

20 Okay. So -- oh, well, this just says I can consider -- I  
21 consider any evidence, any information. It doesn't even say  
22 "evidence." It says "information concerning background,  
23 character, and conduct of a person convicted of an offense may  
24 receive and consider for the purpose of imposing an appropriate  
25 sentence."

1       The issue here, though, as I -- so that may suggest,  
2       because it's nice and clear, that I consider everything. On  
3       the other hand, we have 6A1.3 which says if there is a factor  
4       important to the sentencing determination, then if it's in  
5       dispute, the Court can hold a hearing in order to determine  
6       whether it's reliable.

7       So I think that that's the balance I would suggest,  
8       otherwise you would never have -- there would be no 6A1.3.  
9       You'd just say, "Well, look, Judge, isn't it information?"

10      "Oh, yeah, it's information." "Well, that's it. Submitted."

11      So I don't think it's of the type that I wouldn't consider  
12      it; that is, I think it does relate to the issues that I've  
13      identified, whether one is doing it for the third point or one  
14      is just doing it on the more important point of future  
15      dangerousness, but I leave that up to you.

16           **MR. HASIB:** I agree wholeheartedly with 6A1.3 and  
17      really the only limitation on what this Court can hear at  
18      sentencing is: Is there some degree of reliability to it?

19      And with respect to Ms. McNamara's characterization of the  
20      *McGowan* case, I think it's clear that there's no rule that a  
21      Court has to hear from informants at sentencing. Rather, even  
22      in the *McGowan* case, the touchstone is: Is the information  
23      before the Court credible? Is there any reliability to it?

24      Now, I can go and outline for the Court why exactly the  
25      Government thinks that there is at least some modicum of

1 credibility to these two informants. Ms. McNamara is correct,  
2 there's one main informant. Then there's a second informant  
3 that sort of corroborates some of the information provided by  
4 the first one.

5 But there is no need for a hearing. This Court is well  
6 versed in the dangers of relying on jailhouse informants. They  
7 are notoriously difficult to determine whether their  
8 information is accurate or not.

9 That said, there are factors here that suggest that these  
10 informants were, in fact, credible. Number one --

11 **THE COURT:** Don't you think -- before we get into it,  
12 don't you think informants are of a particular type that  
13 cross-examination is a key mechanism for trying to ferret out  
14 the truth of the matter?

15 I mean, remember, a person who's an informant, at least in  
16 this context, is a person who himself or herself -- himself in  
17 this case -- is undergoing the criminal justice system, is not  
18 found to be -- wasn't sort of a citizen informant, just  
19 somebody coming forward who saw something and then reported on  
20 it as a public citizen. This is a person who is in jail either  
21 awaiting sentencing or part of the criminal justice system who  
22 is already found to be engaged in criminal activity, and I  
23 think not to permit the Defense to cross-examine this person is  
24 suspect.

25 So I would -- there may be some indicia of reliability,

1 but I think that the Court has long relied on the airing the  
2 public disclosure of the reasons for the sentencing, you know,  
3 occurring on the record in front of the public and the Court  
4 making the determination as to whether or not something's  
5 reliable or not.

6 I'm not saying that I'm particularly an expert in this  
7 area, but I think that we have guaranteed to defendants the  
8 right of cross-examination. It seems particularly critical  
9 here where the determination is how long does a person serve.

10 If the Government were saying to me, "Well, look, it's not  
11 a lengthy -- they weren't asking for a lengthy sentence," but  
12 you're asking for a 33-year sentence for a 23-year-old person,  
13 and so I can't imagine a more dramatic impact on sentencing  
14 than future dangerousness has and, indeed, the Government  
15 believes that the defendant is highly dangerous and, therefore,  
16 I would allow cross-examination.

17 Now, you know, I cut you off, but I thought maybe you  
18 should make these elections a bit later in this process. Maybe  
19 you've made them already, you know. I'm cutting you off and I  
20 don't want to do that, but I think we'll see things as they go  
21 along and then we'll try to figure out where we go.

22 **MR. HASIB:** I think I hear the Court loud and clear.  
23 It looks like this is going to be at least a two-day sentencing  
24 hearing if not more than that, and we'll prepare to have the  
25 informants brought here so that the Court can gauge their

1 credibility for itself.

2 I would remind the Court that the Court already has  
3 experience with the main informant. He was before Your Honor.  
4 Your Honor sentenced him the first time. Your Honor put him  
5 back in jail on supervised release, which is how -- at least  
6 the Government alleges that's how he ended up in custody with  
7 Mr. Alhaggagi.

8 So Your Honor has already gauged Informant Number 1, but  
9 I'm not going to beat a dead horse. I hear the Court wants to  
10 hear them again in person given, again, the nature of the case  
11 and the substance of the allegations.

12 **THE COURT:** Well, I didn't cross-examine the  
13 informant. I mean, the informant was a defendant in front of  
14 me. My interaction with the defendant was through his counsel  
15 so I don't have -- as I sit here now, I have no judgment in my  
16 mind as to whether or not this person's reliable. I must tell  
17 you that. There is no experience that I had that sort of  
18 endorsed or detracted from his credibility. I actually don't  
19 remember him, but -- I don't want to offend anyone -- but the  
20 fact is I would judge his -- if the Government believes it's  
21 significant, then I would judge his credibility as I would any  
22 other witness who comes before me; but I think in this case  
23 that person ought to be subject to cross-examination.

24 **MR. HASIB:** Well, in that case, Your Honor, Your Honor  
25 questioned whether the Government was going to rely on this

1 information and whether we wanted to elect now or later, we are  
2 going to rely on it and we are going to put it in front of  
3 Your Honor; and if Your Honor wants to have it in front of you  
4 in the form of an evidentiary hearing, then we'll prepare for  
5 that. But the answer to Your Honor's question is, yes, we are  
6 going to rely on it.

7 **THE COURT:** Fair enough. That's fine.

8 **MR. HASIB:** Now, that said, I think we can move on to  
9 the testimony from the one witness the Defense is going to  
10 offer today with one -- I have one clarification for the Court.  
11 I intend to ask that witness about some of the allegations, but  
12 I would do so in a -- much as I did in the sentencing  
13 memorandum.

14 **THE COURT:** You can do it in any way you want to do  
15 it.

16 **MR. HASIB:** Okay.

17 **MS. McNAMARA:** Your Honor, thank you.

18 I would just note for the record we object to giving the  
19 Government more time here to call these men. We made it  
20 abundantly clear they should be here today, and I think the  
21 Government tried to allied what is clearly the rule and decided  
22 not to call them. I think they're stuck with that, and so I  
23 would object to extending this any more than it has to be  
24 already.

25 **THE COURT:** Well, your objection is overruled and

1 noted for the record.

2 **MS. McNAMARA:** I had the feeling the Court would say  
3 that.

4 **THE COURT:** Well, I just -- I really want to try to  
5 get this right and it is so serious. I don't think -- I was  
6 remarking earlier, musing about it -- that I've had a  
7 sentencing as dramatic in the sense of what was done, what was  
8 said, and what a potential sentence should be, and I've done  
9 this now 21 years.

10 So I just want to give the parties -- and believe me, I  
11 mean both the Defense and the Government -- really a full  
12 opportunity. So when all is said and done, the parties aren't  
13 going to look back and say, "You know, if only I could have  
14 presented this or if only I could have shown that." It's not  
15 going to be counsel or the Court's lack of attention to the  
16 details. It could be something else.

17 **MS. McNAMARA:** I fully appreciate that, Your Honor.

18 Very good. So given that, we will -- my colleague,  
19 Mr. Gugelmann, will raise with our Defense expert the substance  
20 of these allegations in the same spirit that the Government has  
21 addressed them in open court, which is somewhat generally.

22 In addition, there is one other correction to the PSR we'd  
23 like to have the Court hear now, and Mr. Gugelmann will address  
24 it, but it goes directly to the offense conduct so I think we  
25 should get that on the record. And I believe the Government

1 does not have an objection to our motion to correct.

2 **MR. HASIB:** That is absolutely right and, in fact,  
3 this is something that we raised in our objection letter to the  
4 draft PSR and it's still in the final version.

5 **THE COURT:** What paragraph should I be looking at?

6 **MR. GUGELMANN:** This is paragraph 24, Your Honor.

7 **THE COURT:** All right. Let me take a look at it first  
8 if I may.

9 (Pause in proceedings.)

10 **MR. GUGELMANN:** And on the third line the sentence  
11 that starts "In this conversation."

12 **THE COURT:** Yes.

13 **MR. GUGELMANN:** That refers to something that just --  
14 that was just a factual confusion there. That just didn't  
15 happen in that conversation. So we have -- the parties have  
16 agreed, and we've discussed with the probation officer, that to  
17 fix this we would strike on line 3 beginning at "Bank al Ansar"  
18 all the way through the end of line 6 so that the sentence  
19 would then read (reading):

20 "In this conversation, Alhaggagi opened a Twitter,  
21 Facebook, and Gmail account."

22 **THE COURT:** Okay. And that's by agreement?

23 **MR. HASIB:** Yes. Absolutely.

24 **THE COURT:** Okay. So the sentencing report will be  
25 amended.



1           **MR. GUGELMANN:** And one other amendment that goes with  
2 that. The note that is below between paragraph 24 and 25 will  
3 be stricken as well.

4           **THE COURT:** Okay. And that's by agreement?

5           **MR. HASIB:** Yes, Your Honor.

6           **MR. GUGELMANN:** Yes.

7           **THE COURT:** Okay. So that's omitted. Thank you.

8           **MS. McNAMARA:** Thank you, Your Honor.

9           **THE COURT:** Okay. So, Ms. McNamara, do you want to  
10 proceed?

11           **MS. McNAMARA:** Mr. Gugelmann will address the Court  
12 through our expert Dr. Marc Sageman.

13           **THE COURT:** Okay. Thank you.

14           Thank you, Mr. Gugelmann.

15           **MR. GUGELMANN:** Thank you, Your Honor. And the  
16 Defense would call Dr. Sageman.

17           **THE COURT:** Okay.

18           **THE CLERK:** Please raise your right hand.

19                           **MARC SAGEMAN,**  
20 called as a witness for the Defendant, having been duly sworn,  
21 testified as follows:

22           **THE WITNESS:** Yes, I do swear.

23           **THE CLERK:** Thank you. Please be seated.

24           Please state your full name for the record and spell your  
25 last name.

1           **THE WITNESS:** Good morning, Your Honor.

2           **THE COURT:** Good morning.

3           **THE WITNESS:** My name is Marc, M-A-R-C, S. middle  
4 initial, Sageman, S-A-G-E-M-A-N.

5                           **DIRECT EXAMINATION**

6           **BY MR. GUGELMANN:**

7           **Q.** Good morning, Dr. Sageman.

8           **A.** Good morning.

9           **Q.** Could you start by please outlining your educational  
10 background?

11          **A.** Yes. I went to Harvard University. I graduated from the  
12 college with an A.B. in 1973.

13               I then went on to be an M.D.-Ph.D. fellow and got both my  
14 degrees at New York University.

15               After that, I went to flight school. I went to CIA case  
16 officer school. I went to many professional schools.

17          **Q.** Well, so, let's, then, start with after you got your  
18 M.D.-Ph.D. what your career trajectory was from there.

19          **A.** I first did a residency in surgical pathology. I joined  
20 the Navy as a flight surgeon. I retired as a commander after  
21 three years.

22               I joined the CIA, the Central Intelligence Agency, in  
23 1984. Went to, I guess, CIA case officer school for a year. I  
24 was assigned to Washington, D. C., and headquarters in  
25 Islamabad, then New Delhi.

1 In 1991 I resigned from the CIA. Went back to civilian  
2 life. Did an internship in medicine for a year, then a  
3 residency in psychiatry with a subspecialty in forensic  
4 psychiatry.

5 Q. Can I just interrupt you for a moment, Dr. Sageman? Can  
6 you explain briefly what a -- so you served as a CIA case  
7 officer?

8 A. That's correct.

9 Q. Can you just explain what that means?

10 A. The CIA case officer is the manager of spies. He tries to  
11 recruit other countries' people to spy on their country for the  
12 U.S. Government and he handles them, he writes reports.

13 In my case, it was a little unusual because in my  
14 activities I also ran a war, I ran a war against the Soviets in  
15 Afghanistan from 1986 to 1989 for about three years from  
16 Islamabad.

17 Q. Thank you.

18 So you then got a -- you finished your residency in  
19 psychiatry, and what did you do then?

20 A. Most of my practice was forensic psychiatry. I basically  
21 specialized in death penalty cases. So I had the opportunity  
22 to interview about 400 convicted murderers. And at the same  
23 time I was teaching at the University of Pennsylvania, I was  
24 teaching psychiatry and law. I was also teaching -- because I  
25 was very interested and I've always been interested in

1 political violence, I was part of this group, Solomon Aschh  
2 Center for the Study of Ethnopolitical Conflict from 1996  
3 onwards. Those were just faculty members of the University of  
4 Pennsylvania that met and discussed political violence around  
5 the world.

6 And so as part of that, I was teaching seminars at the  
7 University of Pennsylvania. I taught seminars on terrorism, on  
8 the moral psychology of holocaust perpetrators on trauma, to  
9 basically senior honor students at the undergraduate level and  
10 also at the graduate school in arts and sciences in psychology.  
11 At the same time I was teaching, as I said, low-end psychiatry  
12 to most of the residents of the city of Philadelphia for about  
13 eight years.

14 **Q.** At some point you moved from academia essentially into a  
15 consulting role with respect to terrorism and terrorist  
16 threats; is that correct?

17 **A.** That's correct. 9/11 happened and I was fascinated by  
18 that like anybody else was, but the first question was: Did I  
19 train those people? And there were no Afghans in Al-Qaeda at  
20 that point, and so they weren't the people I trained. So who  
21 were they? And that's when I started applying the methodology  
22 of social sciences, specially evidence-based social science, to  
23 the study of political violence.

24 **Q.** And can you explain what that means, to apply the  
25 methodology of social sciences to the study of political

1 violence?

2 **A.** Well, for instance, at the time there were a lot of  
3 misconceptions of what terrorists were, and so I tested most of  
4 those theories, most of those hypotheses, by just using  
5 statistics and apparently I was one of the first ones to do so.  
6 My first book *Understanding Terror Networks* became, I guess,  
7 one of the best-selling works in the field and is probably the  
8 most quoted work, and that I did in 2004. So it's basically  
9 applying statistics, epidemiology, control group, Bayesian  
10 probability -- Bayesian, B-A-Y-E-S-I-A-N, from reference-based  
11 mathematician in the 18th -- so applying Bayesian probability  
12 to the study of political violence, people who become  
13 perpetrators.

14 **Q.** And part of that study, then, became --

15 **THE COURT:** Let me ask you a question. Because you've  
16 used this term a few times, I want to make sure I understand  
17 your meaning of it. You say "political violence," and what  
18 exactly do you mean by that?

19 **THE WITNESS:** Political violence includes noncriminal  
20 violence, and by that I mean criminals usually do things for  
21 their own benefit. Most people who do political violence do it  
22 on behalf of a group, either their nation, their community.  
23 That's why it's political. And often they sacrifice so it's at  
24 a great cost to themselves, and so the motivation between  
25 political violence and criminal violence are almost on the

1 opposite side of the spectrum of violence. It still is  
2 violence and maybe the law may consider both of them criminal.  
3 Analytically they're quite different to try to understand them.

4 **THE COURT:** So because violence, whatever its  
5 motivation, can be criminal. I mean, it is criminalized.

6 **THE WITNESS:** That's correct.

7 **THE COURT:** Okay. I mean, there are defenses and so  
8 forth, but putting those aside for the moment, I do something,  
9 I commit an act of violence, usually it's criminalized.

10 So what you mean -- what I understand your term  
11 "political" to mean is that the motivation for the act of  
12 violence is not -- is not -- well, what? Not greed? Not  
13 self-promotion? Because, I mean, people sometimes act in a  
14 criminal way without a monetary gain in mind but, rather, they  
15 are promoting maybe themselves. But in this case you're  
16 talking about promoting a cause; is that the line?

17 **THE WITNESS:** A community. A community more than a  
18 cause.

19 **THE COURT:** A community more than the cause. And so  
20 what do you mean by "a community"?

21 I know I'm interfering with your examination --

22 **MR. GUGELMANN:** Please, Your Honor.

23 **THE COURT:** -- but I'm sort of the audience here --

24 **THE WITNESS:** Right.

25 **THE COURT:** -- and the nice thing about being the

1 audience is that I get to ask.

2           **THE WITNESS:** And it's a fair question. It really  
3 goes to the heart of my argument.

4           First of all, soldiers commit violence and they're not  
5 considered criminals. They are under a different role, the  
6 Geneva Convention, for instance. Same thing for political  
7 violence. Throughout history, political violence was  
8 considered very differently from criminal violence and the code  
9 of law evolved differently. I'm not going to try to teach you  
10 the law, sir, but it really evolved from two different aspects  
11 of the law.

12           So most people I found who commit violence, political  
13 violence, like soldiers, they think of themselves soldiers  
14 defending the community that has been attacked. So soldiers  
15 are a perfect example of people who commit political violence.  
16 They volunteer very often to fight for their country, their  
17 community. They kill other people. And after the war, they  
18 get immobilized. They come back. They become citizens. They  
19 are not considered criminals and they are not pursued as  
20 criminals.

21           It turns out that terrorists are very similar. They  
22 commit violence for the community that they feel -- they  
23 imagine themselves to be part of this community. They feel  
24 that community is attacked and, therefore, they retaliate.

25           As outsiders, we think that this comes out of nowhere but,

1 in fact, in their mind they're just retaliating to what other  
2 people are doing to their community. And so this is explained  
3 in great details in my last book *Turning to Political Violence*  
4 and the book previous to that.

5 Is that clear enough? So terrorism is part of political  
6 violence, and I use "political violence" as a larger term to  
7 include wars, guerrilla wars, insurgencies, civil wars,  
8 terrorism.

9 **THE COURT:** The only reason I started asking questions  
10 was your use of the word "criminal" because a lot of what  
11 political violence is has been, quote, "criminalized"; that is  
12 to say --

13 **THE WITNESS:** That's correct.

14 **THE COURT:** -- governments have enacted laws saying  
15 "Thou shalt not do this," you know, a criminal statute.

16 **THE WITNESS:** And this is very --

17 **THE COURT:** And you're really describing a  
18 different -- you're describing a set of -- you're describing  
19 conduct which, while it may be criminalized, is distinguishable  
20 in your mind from what one might call the run-of-the-mill  
21 criminal behavior.

22 **THE WITNESS:** That's correct, and it was called crimes  
23 of Lèse-majesté.

24 **THE COURT:** Right.

25 **THE WITNESS:** And only very recently in the last three



1 or four decades in Western country has this conduct become  
2 criminalized as common criminal, that's correct.

3 But if you want to understand them analytically why people  
4 commit such action, you really have to just start thinking  
5 outside -- I'm not a lawyer. I'm not a judge. I'm an academic  
6 trying to understand why people and how people do such things,  
7 and so that's why I'm -- that's my work.

8 **THE COURT:** Thank you.

9 **BY MR. GUGELMANN:**

10 **Q.** So when you say you try to understand why people do such  
11 things, part of your work is trying to help governments or in  
12 the past has been trying to help governments and government  
13 agencies decide whether a given individual or maybe a group of  
14 individuals poses a risk of political violence; is that  
15 accurate?

16 **A.** Yes. So on the basis of my whole project, which is really  
17 to understand how people turn to political violence, a subsite  
18 of it is actually evaluating people since now I have a larger  
19 theory: Is this person dangerous?

20 And so, yes, for the Secret Service, for the NYPD, and for  
21 the U.S. Army I did evaluate individuals to try to determine  
22 the potential or the probability -- again it's a probabilistic  
23 statement -- that they might turn to political violence and,  
24 therefore, be a danger.

25 **THE COURT:** Okay. And when you say "dangerous," what

1 do you actually mean by that? Do you mean that the person will  
2 commit an act of violence and, therefore, would be dangerous  
3 from that point of view?

4 Because the case we have here, putting aside the issues of  
5 talk for a moment, speech, just putting those aside, we do have  
6 a defendant who put individuals in touch with or aided these  
7 ISIS websites. And do you consider that to be an act of  
8 violence?

9 **THE WITNESS:** No, I don't. To me, violence is actual  
10 violence. You break people's bones, you kill them, it's actual  
11 violence. But, however, in order to achieve that state, most  
12 people go through other states. They're part of a political  
13 protest community in which they share some ideas, and the  
14 people who become violent emerge out of this political protest  
15 community.

16 So in a sense, it's included. The violence itself is  
17 really the end product of a much larger process where you start  
18 with a lot of people and it really dwindles down to just a few  
19 individuals committing violence.

20 **THE COURT:** Okay. Thank you.

21 **BY MR. GUGELMANN:**

22 **Q.** In your role as a consultant acting to try to identify  
23 whether individuals or groups pose a risk of committing  
24 political violence, what's your process? How do you go about  
25 figuring out for a given individual if that person is

1 dangerous?

2 **A.** Well, I accumulate as much data, as much information about  
3 them as possible. I try to prepare. Eventually it's going to  
4 lead to an interview, but I'm trying to prepare myself to know  
5 as much about them as possible, and that includes all the NSA  
6 traffic. I had all my clearances at the time so everything  
7 that they had on the Internet, everything that's been known in  
8 terms of other interviews of other individuals.

9 In this country, when I conducted those evaluations  
10 because terrorism is under the jurisdiction of the FBI and even  
11 though I conducted them for the Army, I did it in conjunction  
12 with the FBI, but it was me asking the questions since I knew  
13 the individual much more.

14 So I usually interviewed them, and the interview is in a  
15 sense unlike a lot of the other forensic interviews. People  
16 present a certain persona to you in prison, and they're usually  
17 in prison many of them, and so I let them talk. I let them  
18 talk to present to me their story however they want to present  
19 it; and to me that's when the interview starts, after they  
20 finish, because then I start confronting them with the evidence  
21 to try to understand the evidence to put it in the context so  
22 that I can understand them and see where they are in the  
23 spectrum. And that's basically how I proceed.

24 **Q.** How many interviews of terrorists have you conducted? And  
25 I hesitate because I don't want to oversimplify the political

1 violence analysis that you're doing by saying "terrorists;" but  
2 if that's a fair term, how many of those interviews have you  
3 conducted?

4 **A.** Personally about 50, I guess.

5 **Q.** And how many interviews of terrorists have you reviewed or  
6 otherwise been made aware of the contents of even if you didn't  
7 conduct them?

8 **A.** Oh, hundreds. I interviewed most of the people in  
9 Guantanamo. I interviewed other cases, other legal cases where  
10 I got access to the trial transcripts, some of the evidence  
11 admitted at trial. I could not get access to sometimes the  
12 discovery material, but in some cases where I was actually  
13 investigating for the Army, I did get access to the discovery  
14 material as well. So hundreds more.

15 **Q.** And have there been cases where you concluded that the  
16 person you were evaluating in fact did pose that danger?

17 **A.** Yeah. The majority of them.

18 **THE COURT:** I'm sorry?

19 **THE WITNESS:** The majority of them, yes.

20 **BY MR. GUGELMANN:**

21 **Q.** You identified sort of a two-part inquiry, whether there's  
22 a community, an imagined community, that the subject sees  
23 themselves a part of; and, secondly and maybe separately,  
24 whether they pose a risk of violence.

25 Are there instances, in your experience, where the

1 community aspect is there but not the violence aspect?

2 **A.** Yes. I mean, if you want to give an arbitrary number, if  
3 you have a community of a thousand militants, maybe 10 will  
4 become violent of the thousand. So you can see this dramatic,  
5 dramatic decrease when we see the violence.

6 But under certain conditions, that number may increase,  
7 and the conditions are an escalation of the conflict between  
8 the state and this endangered community that they feel being  
9 part of; disillusionment with nonviolent ways to address  
10 grievances; and the third and most important, moral outrage at  
11 state aggression against a community, and that leads a few  
12 people, very few, to volunteer to become soldiers to defend  
13 their communities and attack first the state selectively but  
14 then often society because the state stands for society.

15 So you have a degradation in a sense over time for those  
16 people to commit violence.

17 **THE COURT:** I want to make sure I understand your  
18 statistics. When you say -- let's start with the 1,000  
19 people --

20 **THE WITNESS:** Right.

21 **THE COURT:** -- in the community. Now, is this a  
22 community which identifies as a -- how are they identified?

23 See, I think part of the problem when I start to look at  
24 this is when you talk about ISIS, are you talking about those  
25 people as an example as a community, if that's a community?

1 Are you talking about that would be the thousand people? Or  
2 are you talking about a larger community of, you know, people  
3 who adhere to a particular religious sect or set of beliefs and  
4 they're the community?

5 Because the statistic you give is a rather -- is an  
6 interesting statistic. It's 1 out of -- I guess you'd say 1  
7 out of 1,000 or 1 out of 100, so it's 1 percent. So you would  
8 say, "Well, 99 percent, roughly, 99 percent don't present  
9 themselves as dangerous in terms of violence." I think if I  
10 understand your statistics.

11 **THE WITNESS:** That's correct.

12 **THE COURT:** But I have to actually understand the  
13 denominator to put it in context.

14 **THE WITNESS:** Okay. So let's talk about ISIS. For me  
15 all of the ISIS people are violent and so those would be the  
16 1 percent. But the community, the much larger community, of  
17 people who sympathize or identify with victims of the Syrian  
18 state, the little babies that are being killed by barrel bombs,  
19 so you have a much larger community that sympathizes but of  
20 that large community, only about 1 percent decide to go to  
21 Syria and fight. They're very, very few.

22 So the community is much, much larger than just ISIS; and  
23 even though ISIS at its height was maybe 50-, 60,000 people,  
24 you think it's a large community but the community worldwide  
25 sympathizing with them was much larger than that.

1 BY MR. GUGELMANN:

2 Q. And you used the word "soldiers." You've used that term  
3 several times. Is it fair to say what you're trying to  
4 identify is whether the person you're evaluating sees  
5 themselves as a soldier?

6 A. Yes. I'm looking at a person's social identity, and so I  
7 try to -- sometimes I ask them and they would tell me "I'm a  
8 Mujahed," which in Arabic it's "I'm a person who does jihad."  
9 Mujahed is a person who does jihad, and that means a soldier of  
10 Allah. And that's what Major Hasan, for instance, called  
11 himself, SOA, Soldier of Allah.

12 So those people who think of themselves as soldiers are  
13 extremely dangerous because that's what a soldier does, a  
14 soldier kills for his community. So I'm trying to really kind  
15 of gauge where they are in that spectrum from just sympathizer  
16 to "I'm a soldier and I'm going to do something."

17 Q. In this case you did an evaluation of Mr. Alhaggagi?

18 A. Yes, I did.

19 Q. And I just want to be clear how that evaluation fits into  
20 the framework of what you're looking for.

21 If Mr. Alhaggagi had committed or intended to commit the  
22 offenses that were discussed, would he then fall in the  
23 category of political violence and a soldier as you define  
24 those categories?

25 A. Definitely, yes.

1 Q. So your evaluation of Mr. Alhaggagi, I want to skip to the  
2 end and then sort of work our way through it. Can you tell us  
3 what your conclusions were to start?

4 A. Well, my conclusion is that Mr. Alhaggagi did not think of  
5 himself as a soldier for the Islamic State. In that sense, he  
6 was not a terrorist as people call it. I use -- I avoid the  
7 term because "terrorist" is very loaded and people use it very  
8 differently, and so I'm much more specific.

9 He did not consider himself a soldier of the state;  
10 therefore, he was a very low probability of becoming  
11 politically violent. But I also looked at him as potential for  
12 just criminal violence; and, here, again, I found him at low  
13 probability of even criminal violence.

14 Q. So you explained your methodology here is to start -- your  
15 methodology generally is to start with what in this case would  
16 be the discovery, what the defendant has said, what he's been  
17 seen doing, and then interview the subject. Is that what you  
18 did here?

19 A. Yes. Unfortunately, I did not have the whole of  
20 discovery, I had portions of the discovery material, in June of  
21 this year when I interviewed Mr, Alhaggagi.

22 Q. And then meaning you had the discovery that had been  
23 produced to that point and then you received more discovery  
24 later on?

25 A. That's correct, yes.



1 Q. Dr. Sageman, I want to show you one document that sort of  
2 amazingly is not part of what has been filed so far.

3 THE COURT: I think I have it, don't I? Was this just  
4 handed to me?

5 MR. GUGELMANN: No. This is a different one.

6 THE COURT: Oh, no, this is something else. So can we  
7 mark this?

8 MR. GUGELMANN: Yes. And I don't know if we want to  
9 continue with the order of the Defense exhibits.

10 THE COURT: Well, no. Let's have a hearing exhibit  
11 number so then I can keep track.

12 By the way, this document is marked "Secret." So what am  
13 I supposed to take from that?

14 MR. GUGELMANN: So I think this would be submitted  
15 under seal, I think.

16 THE COURT: Well, it's now being -- is it being shown  
17 to --

18 THE CLERK: Uh-huh.

19 THE COURT: It's okay by me. It's being shown to the  
20 audience or is it not? I mean, we're not going to swear  
21 everybody in this room to secrecy. So the question is: Is it  
22 being disseminated in this public setting? So, of course,  
23 the --

24 THE WITNESS: Your Honor, it has the name of the  
25 translator, which has been blacked out in previous -- in

1 another setting.

2 **MR. GUGELMANN:** So I think we would not display this,  
3 certainly not the page that has the name of the translator. We  
4 would be displaying only -- let me just show the Government  
5 real quick.

6 **THE COURT:** Well, this should all be worked out  
7 between the Government and the --

8 **MR. HASIB:** It will, Your Honor. For today's  
9 purposes, I think let's not show it to the public. I can  
10 represent to the Court that I believe these materials -- the  
11 Court will recall there was a CEPA motion that was filed in  
12 this case.

13 **THE COURT:** Yes.

14 **MR. HASIB:** Along with that, the Government --

15 **THE COURT:** I think I granted it.

16 **MR. HASIB:** I think you did. I'm quite sure you did.

17 Along with that CEPA motion, the Government also  
18 declassified lots of documents. I believe this was something  
19 that was declassified.

20 **THE COURT:** It has been declassified.

21 **MR. HASIB:** What we're looking at is the version that  
22 was originally classified but has since been declassified. For  
23 today's purposes, I suggest we review this not publicly; but if  
24 I can confirm --

25 **THE COURT:** If he's going to be asked questions about

1     them, how can people not -- I mean, people have to understand  
2     what these -- I mean, I don't want one of these hearings where:

3             "Okay. Do you see that on line 3?

4             "Yes.

5             "What do you think about that?"

6             I mean, what's "that"? That's not -- we're not going to  
7     have a hearing like that.

8             This is not a hearing on secret testimony. This is a  
9     public hearing.

10            **MR. HASIB:** May I have a moment, Your Honor?

11            **THE COURT:** Yes. Do you want to take a little recess  
12     now and maybe go through what these documents are, and then --

13            **MR. HASIB:** Yes.

14            **THE COURT:** Okay. We'll be in recess until 11:00.

15            **MR. HASIB:** Okay. Thank you, Your Honor.

16            **MR. GUGELMANN:** Thank you.

17                     (Recess taken at 10:42 a.m.)

18                     (Proceedings resumed at 11:02 a.m.)

19            **MR. HASIB:** Your Honor, before Mr. --

20            **THE COURT:** Wait. We have to wait for the defendant.

21            **MR. HASIB:** Yes. Sorry.

22                     (Defendant present.)

23            **THE COURT:** Okay. Let the record reflect the  
24     defendant is present, the parties are present.

25            Yes, sir?

1           **MR. HASIB:** Your Honor, before Mr. Gugelmann  
2 continues, I've consulted with my colleagues at FBI. The  
3 document in question was declassified. It appears that the  
4 version that is here with Mr. Gugelmann's material erroneously  
5 still contained the classification marking. It erroneously  
6 still contained a classification marking. We are working to  
7 get a version that does not have that classification marking.

8           In the meantime, I've reviewed the materials Mr. Gugelmann  
9 is going to move from this point forward and they appear no  
10 classification. So the Government's --

11           **THE COURT:** So while the term "Secret" appears on the  
12 document, it has been declassified and so the substance of it,  
13 that's fine, and that the accurate version of that document  
14 that exists today should not have the term "Secret" on it?

15           **MR. HASIB:** That's correct.

16           **THE COURT:** Because I understand "Secret" is a  
17 classification. "Secret" is a secret.

18           **MR. HASIB:** Not anymore apparently.

19           **THE COURT:** Well, it's not a secret. Okay.

20           **MR. GUGELMANN:** So we won't display anything that  
21 bears the word "Secret" on there.

22           **THE COURT:** Okay. But I would say it's probably not a  
23 well-kept secret.

24           **MR. GUGELMANN:** No longer.

25           **THE COURT:** Right.

1           **MR. HASIB:** It seems fairly safe to say.

2           **THE COURT:** Okay. So let's --

3           **MR. HASIB:** In any event, the content --

4           **THE COURT:** The content is not secret?

5           **MR. HASIB:** Plainly declassified, yeah.

6           **THE COURT:** All right. You may proceed.

7           And let's have it marked as -- well, just list the  
8           exhibit, Exhibit Number 1, Hearing Exhibit 1.

9           **MR. GUGELMANN:** Hearing Exhibit 1. Thank you,  
10          Your Honor.

11          (Hearing Exhibit 1 marked for identification)

12          **BY MR. GUGELMANN:**

13          **Q.** All right. Dr. Sageman, we had been discussing your  
14          conclusions about Mr. Alhaggagi. And specifically did you find  
15          that Mr. Alhaggagi had any sort of a grievance against the  
16          United States or against any government in particular?

17          **A.** No, not really.

18          **Q.** So you should have before you now Hearing Exhibit 1, which  
19          is the document with the Bates Number 4939. Do you recognize  
20          that document?

21          **A.** Yes, I do.

22          **Q.** And what is that?

23          **A.** It's a translation of, I guess, the Chat Group 90, as it's  
24          referred to, but in another version it's Chat Group 3078.

25          **Q.** And is that one of the documents that you reviewed in

1 connection with your review of the discovery here?

2 **MR. HASIB:** No objection to authenticity, Your Honor.

3 **MR. GUGELMANN:** We'd ask that it be admitted,  
4 Your Honor.

5 **THE COURT:** Okay. Admitted.

6 (Hearing Exhibit 1 received in evidence)

7 **BY MR. GUGELMANN:**

8 **Q.** I'd like to draw your attention to a statement on the  
9 second page of the document --

10 **THE CLERK:** Publish it?

11 **MR. GUGELMANN:** Yes.

12 **THE COURT:** Just give the Bates number.

13 **MR. GUGELMANN:** It's on Bates 4940.

14 **Q.** And the statement there says -- I'm not sure if it's  
15 appearing on the screen yet or not -- (reading)

16 "TN," translator note, "Case agent requested a  
17 verbatim translation only of the part of the conversation  
18 where the subject is discussing nefarious actions; i.e.,  
19 selling guns, buying phones, manipulating Twitter feed,  
20 et cetera."

21 Did you notice that statement in your review of this  
22 material?

23 **A.** Yes, I did.

24 **Q.** And can you tell us how that indication compares with your  
25 methodology in making the assessments of political

1 dangerousness?

2 **A.** Well, as I said before, I reviewed the whole of discovery  
3 material. I'm interested in both the most incriminating and  
4 the most exonerating elements of a person's life, of a person's  
5 behavior, because you have to look at the totality of things.

6 I was a little bit disturbed that instead of translating  
7 the whole of the discussion group, which runs to about 200  
8 pages and gives you the flavor of what the discussion group is  
9 about, they only translated 10 pages.

10 **Q.** In your initial review, you reviewed a version of this --  
11 a translation of this particular chat; is that right?

12 **A.** Yes, but not this one.

13 **MR. GUGELMANN:** And, Your Honor, if I could approach.

14 **Q.** If you could turn in the binder in front of you --

15 Your Honor, these were filed in connection with the  
16 sentencing by both parties.

17 About halfway through the binder you'll see the  
18 Government's sentencing memo and then Tab 8 for Exhibit 8 to  
19 that memo.

20 **A.** Yes.

21 **Q.** Is that the version of this particular chat that you  
22 reviewed before you interviewed Mr. Alhaggagi?

23 **A.** No, it was not.

24 **Q.** Which version did you review?

25 **A.** I reviewed, as I said, Bates Number 00496 to '504.

1 Q. And was it the same -- was it substantively the same  
2 although it's produced with a different Bates number?

3 A. Yes, with the exception of the back page --

4 Q. Okay.

5 A. -- and the front page and the cover sheet.

6 Q. But the substance of the communications there between  
7 Mr. Alhaggagi and others --

8 A. It's identical.

9 Q. And what were your impressions upon reviewing this before  
10 you met with Mr. Alhaggagi?

11 A. I was very alarmed by it.

12 Q. Can you tell us why?

13 A. Well, it seems, according to this version, that it may be  
14 a discussion of bomb making with some irrelevant information,  
15 jokes in it, but still it seems to be a fairly serious  
16 discussion about how to, first of all, perhaps make a bomb and  
17 then how to connect that bomb to a telephone, to a mobile  
18 phone.

19 Q. And on your screen are excerpts from this document, or  
20 should be momentarily. There's a line at the beginning from  
21 Qurrat al-'Ayn, which is Mr. Alhaggagi's handle in this chat --

22 A. That's correct.

23 Q. -- saying (reading):

24 "I know how to make a bomb with shrapnel and I know  
25 how to make a detonator, but I cannot install it on a



1 mobile phone."

2 **THE COURT:** This is 4949?

3 **MR. GUGELMANN:** 494 -- no, Your Honor. In  
4 Government --

5 **THE WITNESS:** It's 7462.

6 **MR. GUGELMANN:** It's 7462.

7 **Q.** There's a statement there from Mr. Alhaggagi (reading):

8 "I have made explosives and hand grenades before."

9 There's a statement (reading):

10 "It needs hydrogen and it needs acetone."

11 There's a statement that says (reading):

12 "You mix them all in a glass flask in the middle of a  
13 container with ice."

14 Is it fair to say this is the type of statement you found  
15 alarming in reviewing this?

16 **A.** Yes.

17 **Q.** And further statements in the same vein in this chat?

18 **A.** Well, fragments of statements because it's sprinkled with  
19 jokes.

20 **Q.** So you described that your process was that you'd review  
21 the discovery, conduct an interview, confront the subject with  
22 things that you had seen in the discovery. Can you explain how  
23 your confrontation of Mr. Alhaggagi with this material went?

24 **A.** Yes. I told him about the discussion because when I go to  
25 prison, I only have my pen and just a notebook. I don't really

1 bring documents. And I told him about the discussion and he  
2 basically said, "But we were joking. It was a joke." I mean,  
3 this whole group session is a bunch of friends trolling girls  
4 and joking about things. And he said, "This was not really  
5 serious."

6 **Q.** And what was your impression of that and what did you do  
7 next?

8 **A.** Well, I was puzzled. I heard him, but I needed evidence  
9 that he was right, and I let the matter lay there for about  
10 three months until you produced for me a complete set of the  
11 discovery material.

12 **Q.** What did you find then?

13 **A.** Well, I went through every item and that's when I found  
14 this (indicating); namely, what's been introduced here as  
15 Exhibit 1 or A, I'm not sure, what's under Bates 4939. So I  
16 found a second version of this discussion.

17 **Q.** And what was the significance of that to you?

18 **A.** First of all, the translation was not the same and  
19 significantly not the same, and then there were emojis in this  
20 second translation and this puzzled me because in the original  
21 discussion, there was no emoji.

22 So I went to the 18,000-page mobile telephone -- ZTE  
23 telephone extraction report, tracked down the page number in  
24 Arabic.

25 And, Your Honor, you have to understand that I don't speak

1 Arabic and I don't read it --

2 **THE COURT:** I understand.

3 **THE WITNESS:** -- and so I'm just looking at what it  
4 looks like.

5 And at the relevant pages, and I knew it was a relevant  
6 page because they have the time of the communication, so they  
7 have the exact time of the communication, Greenwich Mean Time,  
8 UTC basically, and so I was able to see which communications  
9 were which in Arabic and there were no emoji in that -- in the  
10 ZTE extraction report, 18,000 pages, which constituted  
11 obviously the document that the first translation that I had  
12 read came from because they have no emoji.

13 And when the ZTE extraction report said the name, for  
14 instance, Qurrat al-'Ayn and then there was a blank and then  
15 another person chimed in, the first translation that I had  
16 previously read -- namely, before going to prison -- just said  
17 "blank."

18 **MR. GUGELMANN:** So if you could put up the next slide.

19 **Q.** So the slide in front of you on the screen at the top is  
20 an excerpt from Government Exhibit 8 and below is an excerpt  
21 from Hearing Exhibit 1.

22 **A.** That is correct. And you can see that it's very, very  
23 different, the two translations.

24 **Q.** Can you tell us what the significance of the difference in  
25 those translations told you?

1    **A.**    Well, I think this was in reference to a very famous  
2    attack that happened in Saudi Arabia in I believe it was  
3    October 2009.   Two Al-Qaeda members, brothers, Abdullah  
4    al-Asiri and his brother the bomb maker Ibrahim al-Asiri, tried  
5    to assassinate the person who later became the Crown Prince of  
6    Saudi Arabia, namely, Mohammad bin Nayef, Prince Mohammad  
7    bin Nayef.

8           And so Ibrahim sent his brother Abdullah to recant and to  
9    ask forgiveness of the prince, and usually this is a personal  
10   meeting where the prince meets with the person and pardons that  
11   person and allows the person, the subject, almost to come back  
12   to the kingdom.

13          But the plot was that they inserted a bomb in -- Ibrahim  
14   inserted a bomb in his brother Abdullah's rectum which he  
15   exploded remotely when Abdullah was with Prince Mohammad  
16   bin Nayef.   I kid you not.   This really happened.

17          The reason Mohammad bin Nayef is still alive is that this  
18   happened in a tent.   So when the bomb blew off, the person who  
19   had the bomb, Abdullah, just flew up in the air through the  
20   tent.   Had it happened in, like, this courtroom with very rigid  
21   walls, the reverberation would have killed the prince.

22          And so this actually refers to when they say "The bomb can  
23   be miniaturized."   And as you can see in the first section, it  
24   says "At the end they will enter it in their den."   What they  
25   really said in Arabic, in Yemeni Arabic, they said, "They

1 inserted the bomb in the rectum." And this drew a laugh from  
2 Mr. Alhaggagi, and you see he has 20 smiley emoji in what  
3 really is the real version.

4 And I found this real version again in the discovery  
5 material in a very large file called "ZTE Word," where I  
6 checked all the chats, all the Telegram chats; and within that  
7 chat, this is the chat that's labeled 3078, and it really  
8 had -- it was very similar to the second version of the  
9 translation.

10 So here I can see that they very much were joking about  
11 all those bombs, and at some point one of the persons talking  
12 said, "Gee, you guys look like scientists but you can't even  
13 make up your bed."

14 And the other person was saying, "Do you realize that when  
15 they talk about fertilizer and an acid" -- and they could use  
16 urine for an acid, although it's a very weak acid, nobody uses  
17 that -- the other person, "do you realize that they're talking  
18 about shit and urine here?"

19 And so you can see very much it was a joke. It was -- the  
20 whole thing was a joke. And so I had to really kind of say,  
21 "Well, why would they joke about that?" And I realized that  
22 they were trolling a girl, a 16-year-old girl.

23 Now, that I could -- that I could understand because the  
24 troll was in English. So it was in English in the original.  
25 And, you know, they were asking her, "Well, do you have sex?"

1 And she says, "No, no. It's *haram*."

2 And another person said, "Well, can you show us a picture  
3 of your pussy?"

4 And she said, "No." You know, she was very offended and  
5 turned off.

6 But within that, they say, "Well, you know, when you have  
7 a girl on this -- in this chat group, boys are boys and they  
8 become horny." And VIP, the person who actually is trying to  
9 teach how to make a bomb, apparently in this context was  
10 saying, "Yes, I'm horny."

11 And Mr. Alhaggagi under his handle Qurrat al-'Ayn said,  
12 "You're a dangerous person."

13 So VIP asked --

14 **Q.** Let me interrupt you briefly.

15 **MR. GUGELMANN:** If you could put up...

16 (Pause in proceedings.)

17 **BY MR. GUGELMANN:**

18 **Q.** Is that the exchange you were just about to discuss?

19 **A.** Yes, very much.

20 **Q.** And VIP, who's the handle of the person that Mr. Alhaggagi  
21 is in this chat room with, asked, "Where is the danger?"

22 Mr. Alhaggagi says, "In the detonator."

23 VIP says, "Bombs are much more dangerous."

24 And then we see the three smiley face emojis, which did  
25 not appear in the first version of the chat that you reviewed.

1   **A.**   That's correct.  So basically by "detonator" I think he  
2   probably means his phallus in here.  And so they go about using  
3   this metaphor and they go about discussing the dangerousness of  
4   the main charge, which I think the VIP calls the "bomb" or it's  
5   translated into the "bomb" versus the "detonator," which is  
6   actually the more dangerous.

7   **Q.**   And if you could go to the next slide.

8           **THE COURT:**  So I understand it, what I'm now looking  
9   at, the slides with the emojis, is it understood that these  
10  were in the original documents?

11          **MR. GUGELMANN:**  These were in the original documents  
12  through -- in the original documents, yes.  Through the  
13  process --

14          **THE COURT:**  The original documents being the evidence  
15  of the chat room?  This is the way the chats occurred; is that  
16  right?

17          **THE WITNESS:**  Correct.

18          **MR. GUGELMANN:**  Correct.

19          **THE COURT:**  The one with the emojis.

20          **MR. GUGELMANN:**  Correct.

21          **THE COURT:**  And I think that's your point.

22          **MR. GUGELMANN:**  That's my point.

23          **THE COURT:**  Okay.  So what I look at when I look at  
24  the screen now, I'm now looking at a translation of the  
25  original chat.

1           **MR. GUGELMANN:** Correct.

2           **Q.** So if you could look at what's before you right now. This  
3 is the end of the conversation with VIP about bomb making. And  
4 I'll just ask whether this supports your conclusion that all of  
5 this really started with jokes about -- fairly crass jokes  
6 about sex?

7           **A.** Yes, because here they say, "Well, maybe we should insert  
8 the bombs in women's vagina," and trying to recruit them doing  
9 that. And they're all laughing and, you know, one guy says,  
10 "Well, what are we talking about?"

11           And VIP is laughing and says, "About terrorism."

12           And the other person says, "About dicks and penises."

13           So you can see very much what that conversation is all  
14 about.

15           **Q.** So having gotten a fuller picture of the discussion about  
16 bomb making than you had in the first version that you viewed,  
17 you testified that when you first saw it, you found it very  
18 alarming, you were puzzled by Mr. Alhaggagi's explanation that  
19 it was all a joke. How does that explanation square with the  
20 chat as you saw it ultimately in its completion?

21           **A.** Well, I think that supports what Mr. Alhaggagi told me.  
22 You know, I don't really take at face value what defendants  
23 tell me. I try to look further in the evidence, and I think  
24 here he probably was right.

25           **Q.** I want to spend some time talking about the specifics of



1 the evidence in this case and how those pieces of evidence  
2 relate to your conclusions about Mr. Alhaggagi. Before I do  
3 that, can you tell us a little bit about his personal  
4 background as it related to your -- relates to your conclusion  
5 he was not dangerous?

6 **A.** Well, as I said, I try to look at the totality of a  
7 person. So basically he came from a Yemeni family who  
8 emigrated to the United States in the early '90s. He was born  
9 1995 in Lodi, California. Spent the first six, seven years in  
10 this country.

11 And then the whole family, except for the father, who  
12 stayed behind in California to work, the family went back to  
13 Yemen. The reason is a little bit obscure. It seems that  
14 there may have been -- it may have been a consequence of the  
15 hostility they faced after 9/11 from their neighbors; but the  
16 mother explained to the defendant, Mr. Alhaggagi, that they  
17 wanted him to learn about Yemeni culture and so they went back.

18 He stayed in Yemen until 2005. Came back for the school  
19 year of fifth grade in 2005-2006 because his mother felt he was  
20 a little bit of a handful and needed a man.

21 And during that time, because the father was working all  
22 day long till 9:00 p.m., he forced his son -- and the father  
23 was sharing an apartment with two men that he did not think  
24 were good for his son, and so he told his son -- he forced his  
25 son to go to the synagogue -- I'm sorry, the wrong religion. I

1 cannot project my own here -- to go to the mosque from the end  
2 of school to 9:00 o'clock when the father would pick him up.

3 And Mr. Alhaggagi, the son, was totally bored out of his  
4 mind during that time, basically tuned out. Still is angry at  
5 dad.

6 He returned to Yemen in 2006 to 2009. And while in Yemen,  
7 he got into lots of fights because that seems to be a national  
8 pastime in Yemen. Little boys fight, but especially  
9 Mr. Alhaggagi, because he defiantly had a T-shirt with an  
10 American flag on it and people called him *al-Amriki*, meaning  
11 "the American." And he was proud of his American background.

12 And at the same time he's a little bit pale and it seems  
13 that in Yemeni culture paleness is also a sign of weakness, and  
14 so he was picked on quite a bit so he defended himself.

15 And, again, he became a handful for his mother. His  
16 mother told the father he has to come back to the  
17 United States. He came back with his father in 2009 in ninth  
18 grade. So he did all of high school here.

19 But the first year that he came back, a few months after  
20 he came back, the father went back to Yemen for four months and  
21 left his son by himself at the age of 14 to fend for himself  
22 because in Yemen you're a man at the age of 13. So he's a man.  
23 He can have the responsibility.

24 Of course, Mr. Alhaggagi was a little bit immature.  
25 Basically he cut classes, had friends, and started smoking

1 marijuana. He was going to Berkeley High School so he was  
2 mostly on campus at Berkeley University, because the high  
3 school is two blocks away, with some friends and they're  
4 starting basically talking nonsense, trolling other people.

5 And that's how he developed his trolling character,  
6 started a Facebook page with all kinds of strange clothing on  
7 it. Somebody sent it to his father who was really upset so  
8 when the father came in, he made him throw all his clothes  
9 away, except for three pair of pants and three shirts, because  
10 he did not approve of it.

11 But the sophomore year, the same thing happened. The  
12 father went back to Yemen for about four months and again  
13 Mr. Alhaggagi basically dropped out of school almost, flunked  
14 all his classes in ninth grade, tenth grade.

15 When the father came back, pulled him out of Berkeley High  
16 School, put him in another school where he became popular and  
17 was even elected class president on a platform of distributing  
18 marijuana to all the students. So that's the basis of his  
19 popularity. And then went to remedial high school where he  
20 actually caught up and finally returned to Berkeley High School  
21 where he graduated I believe in 2013, in June 2013.

22 Q. You started to talk about his online activity and  
23 trolling. At some point the evidence shows that Mr. Alhaggagi  
24 in his online activity developed an interest in events in the  
25 Middle East and in ISIS. Can you explain how Mr. Alhaggagi

1 came to be interested in ISIS and then ultimately to interact  
2 with ISIS supporters online?

3 **A.** Yes. That came quite a bit later, about three years  
4 later. He had gone first to Saudi Arabia for the whole month  
5 of April for his sister's wedding. He was a male escort for  
6 his sister because his father could not really come. And he  
7 had plans to get into business with a cousin, and that fell  
8 through.

9 So when he came back from Saudi Arabia in May of 2016, he  
10 had nothing to do so he had been very busy online on a lot of  
11 social apps, trolling girls at the time. And the big thing in  
12 the Middle East was the war, was the war in Syria and Iraq.  
13 And so on Twitter he saw something that said "If you're  
14 interested in what's happening to the Middle East, click this,"  
15 and it was the Telegram. I don't know if it was a chat group  
16 or if it was a channel, but he clicked on it and he had to be  
17 part of Telegram so he downloaded the Telegram app and started  
18 reading the news.

19 **Q.** Is it common, in your experience, for people to gain an  
20 interest in ISIS and review material related to ISIS online?

21 **A.** Well, when you're from the Middle East, yes, it's very  
22 common because this is not really well reported in the West,  
23 especially not in the United States. The report is a little  
24 bit better in Europe. And so for you -- for a person to find  
25 out what's going on in the war, not just ISIS but in the war,

1 you basically have to look online at either Twitter or Telegram  
2 or Facebook, all kinds of social media.

3 Q. Is it an indication in your opinion that someone has  
4 adopted extremist beliefs or a radical ideology that they look  
5 up information about ISIS on Twitter or online in general?

6 A. No. This is just simply curiosity. Especially if you  
7 come from the Middle East, it's actually quite common.

8 Q. Is it an indication of tendency towards or risk towards  
9 political violence?

10 A. No, not yet.

11 Q. When you say "not yet," what do you mean by that?

12 A. Well, I mean you have to become a militant and activist.  
13 You have to be part of a political protest community, and he  
14 was -- he was just watching -- he was just looking at the news.

15 Q. At some point the evidence shows Mr. Alhaggagi also  
16 developed an interest in bombs and in bomb making. Does the  
17 evidence that you reviewed show that?

18 A. Yes.

19 Q. And what did you learn about how that interest developed  
20 and what steps, what actions Mr. Alhaggagi took arising out of  
21 that?

22 A. Well, this -- I must say the fascination with bombs is a  
23 little bit more unusual than an interest in Middle Eastern  
24 politics, but I myself am fascinated by bombs. I was trained  
25 in bomb making for three times, I think. There's something

1 fascinating about something that can destroy you. Some people  
2 are interested in weapons in this country. I'm not but bomb  
3 making was different for me.

4 So a lot of people are interested in bombs because bombs  
5 can destroy you. It can blow you up. It's almost like an  
6 existential threat so people are kind of fascinated by that.

7 Mr. Alhaggagi tried to get on, I think, maybe an ISIS  
8 channel, an ISIS chat group, I'm not really sure what, and he  
9 met a person online who seemed to have introduced him to some  
10 kind of bomb trainer. And so the bomb trainer said, "Well,  
11 what are you going to use it for?"

12 And this is actually very common. In most terrorist  
13 organizations, such as Al-Qaeda, all kinds of -- not just  
14 Al-Qaeda but any kind of even non-Muslim terrorist  
15 organizations, the bomb makers, the trainers, feel responsible  
16 for what the students would do, and so they ask the students  
17 what are they going to do with that knowledge; and in order to  
18 have some control over the students, they ask the students to  
19 pledge allegiance to them.

20 And this seems to be what the trainer online asked  
21 Mr. Alhaggagi to do, to kind of send him a report on what he  
22 was going to use his knowledge for, and Mr. Alhaggagi did that.

23 **Q.** Could you turn in your binder there to Government  
24 Exhibit 5?

25 **A.** (Witness examines document.) Yes.

1 Q. Is that the report you were just referring to?

2 A. Yes, that's correct. That's a report he told me he sent  
3 to get the bomb training manual.

4 Q. Is this -- you've reviewed this report; correct?

5 A. Yes.

6 Q. Is this document a suicide note?

7 A. Absolutely not.

8 Q. And why do you say that?

9 A. Well, first of all, in Islam there's really no suicide  
10 note. There's no suicide in Islam. It's strictly, strictly  
11 prohibited and so people don't really use suicide notes that  
12 way.

13 However, some people who are going to become a suicide  
14 bomber -- and they think of it as martyrdom so they don't think  
15 of suicide, they think it's the ultimate sacrifice for your  
16 community, martyrdom -- they leave behind the document  
17 explaining the justification and their rationale for doing what  
18 they're doing.

19 And so you can have two types of notes. You can have a  
20 personal note to your spouse and in order to kind of contrast  
21 this with what people call suicide notes or *wassiya*, some will  
22 that's videotaped. I just count from my next book, I took 10  
23 suicide notes which I discuss in my next book called *The London*  
24 *Bombings*, and you can see that there is nothing operational in  
25 any of the 10. And I've seen maybe two or three dozen suicide

1 notes. These are just downloaded from my book.

2 Q. And when you say there's nothing operational, does that  
3 mean there's nothing describing the actions that the person  
4 would be planning?

5 A. That's correct. Because a note is, of course, written  
6 before the operation and it would be terrible security to say  
7 what you're going to do. They just explain the rationale.

8 So if it's a personal note like this one, the person said  
9 (reading):

10 "I want that my whole family and all my friends know  
11 that I want to do jihad in the name of Allah and I hope to  
12 find a place in paradise. To my wife," and I'm not going  
13 to say her name, "you were a good woman to me for more  
14 than 20 years. As God is my witness, I have loved and  
15 been faithful to you, and so on, but, nevertheless, my  
16 love for God and jihad was greater, therefore, I did  
17 this."

18 And if you look at all the suicide notes from the London  
19 bombers, and I have two of them, and the suicide notes that  
20 were recorded in the Overt case, which was liquid bomb case in  
21 London in 2006, we have all of those and you can see that all  
22 of them is about the rationale of what they're doing to the  
23 public, trying to explain to them what they're doing. It's  
24 really more of a propaganda piece to try to influence other  
25 young Muslims to join them to do this.



1 Q. I want to --

2 MR. HASIB: Your Honor, if I may ask, the Government  
3 has not seen these additional notes. If they could be marked  
4 as, I think, sealed exhibits, I don't know, as a precaution.  
5 If the Government can be provided a copy.

6 MR. GUGELMANN: Yes. We have additional copies of  
7 those.

8 THE COURT: Okay. Will you give them to the  
9 Government? Thank you.

10 MR. GUGELMANN: And I'll also mark a copy here as  
11 Hearing Exhibit 2.

12 (Hearing Exhibit 2 marked for identification)

13 THE COURT: Why should they be sealed?

14 MR. GUGELMANN: I would defer to Dr. Sageman on  
15 whether they would need to be sealed.

16 THE WITNESS: Yeah, I mean, those are my notes and  
17 there's nothing -- maybe the last one, but the last one was  
18 part of a document that was entered in the Amor Ftoui case.  
19 That's still in litigation. I don't think that --

20 MR. GUGELMANN: I don't know that these need to be  
21 entered into evidence, Your Honor. I think he's referred to  
22 them. The Government has seen them. The Court can --

23 THE COURT: All right. So they'll be marked for  
24 identification, remain sealed unless a party wishes -- as I  
25 understand, these are examples --

1           **THE WITNESS:** That's correct.

2           **THE COURT:** -- of suicide notes --

3           **THE WITNESS:** That's correct.

4           **THE COURT:** -- in operations in which it was clear  
5 that a suicide -- I mean, a bombing occurred and this was what  
6 was found by the authorities one way or the other or  
7 disseminated by the bomber --

8           **THE WITNESS:** Disseminated by the bomber.

9           **THE COURT:** -- disseminated by the bomber as his or  
10 her last note on the subject?

11          **THE WITNESS:** That is correct, and all of those were  
12 suicide bombings. By that I mean the whole purpose was to blow  
13 yourself up and kill as many people as possible. So suicide  
14 was an integral part of the operation.

15          **THE COURT:** And your point here is when you compare  
16 and contrast these notes with what is Exhibit Number -- well,  
17 it's listed as 5053 Bates stamp --

18          **THE WITNESS:** That's right.

19          **THE COURT:** -- they're not similar, they're  
20 dissimilar, and they're dissimilar in some ways, one of which  
21 is this describes operational methods and the actual suicide  
22 notes do not contain operational information?

23          **THE WITNESS:** That's one difference. And the other --

24          **THE COURT:** Yeah.

25          **THE WITNESS:** -- Bates 5053 does not -- explains a

1 rationale. Those explain the rationale and justification for  
2 doing things. So they're radically different.

3 **THE COURT:** Okay.

4 **BY MR. GUGELMANN:**

5 **Q.** Did Mr. Alhaggagi -- so Mr. Alhaggagi submitted this  
6 report to someone he told you; is that right?

7 **A.** Yes.

8 **Q.** Did he actually get any bomb-making instructions as a  
9 result of providing this to someone?

10 **A.** Not according to him.

11 **Q.** And why was that?

12 **A.** Because he did not submit a *baya* to -- he did not swear  
13 allegiance -- *baya* is B-A-Y-A -- he did not submit allegiance  
14 to the trainer and to ISIS, and so the bomb maker did not give  
15 him the manual.

16 But I think that he logged on to another site, which is, I  
17 don't know, the science of bomb making or something like that,  
18 it was a channel; and as he accessed that, he saw a link from  
19 some guy named Abu -- A-B-U -- something linking to some kind  
20 of manual. He clicked on the manual and he got -- he clicked  
21 on the link and got the manual from the other person.

22 **Q.** So he did ultimately --

23 **THE COURT:** So as I understand the scenario is that he  
24 did not swear allegiance to the -- we'll call him Individual  
25 Number 1 --

1           **THE WITNESS:** Right.

2           **THE COURT:** -- the first individual.

3           **THE WITNESS:** Correct.

4           **THE COURT:** Okay. And, therefore, he wasn't given the  
5 information about how to make the bomb.

6           **THE WITNESS:** That's correct.

7           **THE COURT:** But he was interested enough in how to  
8 make a bomb that he pursued that with someone else.

9           **THE WITNESS:** With another site, and on this site  
10 there was a link to a manual, he clicked it, and that's how he  
11 got the manual.

12           **THE COURT:** Then I'm trying to figure out if all of  
13 this is sort of a joke, why wouldn't he carry the joke to the  
14 next step and promise allegiance to somebody who he has no  
15 allegiance to?

16           In other words --

17           **THE WITNESS:** I see.

18           **THE COURT:** -- what's the diff? Since he's obviously  
19 interested in the bomb or he seems to be, whatever his  
20 motivation is, he does take the next step, what's the big deal  
21 about, "Okay. Here's my allegiance. I'm for you, support you.  
22 Now give it to me"?

23           **THE WITNESS:** That's a fair question. I don't think  
24 that he wanted to have allegiance to ISIS. He really wanted  
25 the bomb making. I don't think it was a joke to him to get the

1 manual. He was actually interested in bomb making, simply  
2 morbid curiosity, but he was not interested in pledging  
3 allegiance to a terrorist organization. I think he probably  
4 knew that was wrong and that was -- that may have been against  
5 the law. So he drew the line there.

6 **THE COURT:** Okay.

7 **THE WITNESS:** But he also knew that the bomb manual  
8 came from ISIS because, as I said, the individual who put the  
9 link was named Abu something, which is often a jihadi name, and  
10 so he was pretty sure it came from ISIS.

11 **BY MR. GUGELMANN:**

12 **Q.** So Mr. Alhaggagi disclosed to you that he had not gotten  
13 the bomb manual from the report -- from the person connected to  
14 the report, had gotten some material through another means.  
15 What did he do with that?

16 **A.** Well, I think he read it and he was confused by it, as I  
17 was, when I read it myself.

18 **Q.** Confused in what way?

19 **A.** It's not as clear. There are a lot of bomb-making  
20 articles in the jihadi literature. The most famous and the one  
21 that's used most often is from the first issue of *Inspire*  
22 magazine, a magazine put out by Al-Qaeda in the Arabic  
23 Peninsula, and the article there is "How to make a bomb in your  
24 mom's kitchen." And this is very simple bomb making that  
25 people have downloaded multiple times.

1 And most of the bombings that we see that are self-taught,  
2 because some people are trained and they make different bombs,  
3 but most of the self-taught bombers use that recipe as opposed  
4 to this ISIS recipe, which is for what we call a shape charge  
5 or what they call in the manual a directional bomb.

6 Q. You said this common or simpler bomb recipe was from  
7 *Inspire* magazine. Had Mr. Alhaggagi ever heard of *Inspire*  
8 magazine?

9 A. No, he had not.

10 Q. And where did you -- how do you know that?

11 A. Because he had a discussion with the FBI confidential  
12 informant and the confidential informant said, "Well, it's like  
13 *Inspire* magazine."

14 And he said, "What is that?"

15 And the informant said, "It's a magazine put out by Anwar  
16 al Awlaki -- A-N-W-A-R, al, and then Awlaki is A-W-L-A-K-I.  
17 And he's a Yemeni person.

18 And so Mr. Alhaggagi said, "Oh, I'll look for it."  
19 Because he knew about Anwar al Awlaki.

20 BY MR. GUGELMANN:

21 Q. What's the significance of Mr. Alhaggagi not knowing what  
22 *Inspire* magazine is?

23 A. Well, in my almost four dozen interviews with  
24 English-speaking terrorists or terrorist suspects, he was the  
25 only one who did not know what *Inspire* magazine is. It's

1 extremely -- it's extremely famous and a lot of people who are  
2 not even terrorists or don't inspire to become terrorists have  
3 downloaded that magazine.

4 **Q.** The second or the next phase in the chronology here is  
5 that Mr. Alhaggagi came in contact online with the person we've  
6 referred to as the CHS, the confidential human source. And  
7 we'll continue to just refer to that person as the CHS here.

8 Did you come to learn how that came about?

9 **A.** Yes. Mr. Alhaggagi was on I think it may have been an  
10 Islamic State website talking to a person named Abu 'Ali who  
11 was claiming to be able to sell weapons. And so Mr. Alhaggagi  
12 was testing him and says, "Well, you know, can I buy some  
13 grenades with timers? And how much are they?"

14 And Abu 'Ali was trying to kind of continue the  
15 conversation, but somebody took a snapshot of the conversation,  
16 and Abu 'Ali saw that because a person is notified immediately  
17 when a snapshot of the conversation is taken, and he said,  
18 "Nice try," and disappeared completely.

19 **Q.** And how did that lead to the contact with the CHS?

20 **A.** About a day or so afterwards, because with the  
21 conversation with Abu 'Ali, I think Mr. Alhaggagi said he was  
22 in the United States, and somebody else was in the same chat  
23 room while this was taking on, supposedly CHS notified his FBI  
24 handler who probably gave him the green light to contact  
25 Mr. Alhaggagi.

1           So the next day the CHS contacted Mr. Alhaggagi and said,  
2       "I come from Abu 'Ali, and do you have any weapons to sell?"  
3       And that's how the contact was made.

4       **Q.**   And there are then extensive communications between  
5       Mr. Alhaggagi and the CHS online or through various messaging  
6       apps; correct?

7       **A.**   That's correct.   About 200 pages worth.

8       **Q.**   In the course of those conversations -- and we're going to  
9       go through some of them -- Mr. Alhaggagi said a lot of quite  
10      disturbing things about plans that he had for attacks, plans  
11      that he supposedly was working on.

12      So I want to ask sort of a general question before we look  
13      at some of the specifics, how his willingness to make those  
14      claims factors into your evaluation of him in terms of his  
15      dangerousness.

16      **A.**   Well, from the discussion that he had with CHS, I was very  
17      alarmed.   Again, it looks very damning.   He said, "I'm going to  
18      do this.   I'm going to do that."   And so if I were the FBI, I'd  
19      look further into it.

20      **Q.**   Ultimately what did you conclude about his intentions with  
21      respect to these various claims that he made?

22      **A.**   Well, after all the events happen and you can see that all  
23      of this was just online talk and there was nothing that was  
24      done offline except meeting with CHS' cousin, which I'm sure  
25      we'll get to very soon, nothing was done.   There was no act in



1 furtherance and, therefore, the conclusion is that he's just  
2 all talk and nothing else.

3 **MR. GUGELMANN:** Can you put up slide -- I think we're  
4 on 7.

5 So these next slides are going to be excerpts, Your Honor,  
6 of Exhibit E to the Defense sentencing memorandum, which is a  
7 document that starts at Bates 07551.

8 **Q.** So on the screen in front of you, these are statements by  
9 Mr. Alhaggagi. He says (reading):

10 "I got some mad crazy plans."

11 He says (reading):

12 "I think the best thing to do is to plan everything  
13 out, carry out many attacks and tactics at once, which  
14 would show the enemies it's more than just guerilla  
15 warfare and this is properly organized. LMAO."

16 Which means what?

17 **A.** Laugh my ass off.

18 **Q.** (reading)

19 "That sounds so funny when you say it (escape plan)  
20 hahaha."

21 I just want to ask about the "LMAO" at the end of that.

22 And if you turn to the next slide --

23 **A.** I don't have a copy of your slides.

24 **Q.** Oh. I'm sorry.

25 **THE COURT:** On the screen.

1 BY MR. GUGELMANN:

2 Q. On the screen.

3 A. Oh, on the screen. I'm sorry.

4 Q. (reading)

5 "LMAO. I was thinking about that, just staying here  
6 and establishing something; but you know what they say,  
7 everyone is gangster until it's time to do gangster shit."  
8 Three laughing emojis.

9 I just want to ask, in a lot of these chats we see "LMAO,"  
10 we see emojis. What does that indicate to you, if anything?

11 A. Well, it's a certain informality of talk. People are  
12 becoming friends.

13 But before you do that, you have to set the context up  
14 because context is always very important.

15 When CHS wanted weapons, Mr. Alhaggagi said, "Oh, I have a  
16 lot of suppliers. I can send you weapons and, you know, I've  
17 been buying and selling weapons from the beginning."

18 And then the CHS dropped a hint, which is "I want to use  
19 them to defend the *ummah*," meaning the Muslim community. And  
20 then he went on further, the CHS, even before I think  
21 Mr. Alhaggagi said any of this, he said, "Wasn't Orlando  
22 great?" And by "Orlando great," he meant Omar Mateen's murder  
23 of dozens of people at the Pulse discotheque I guess in  
24 Orlando, Florida, that happened before.

25 And so with --

1 Q. Doctor, I'm sorry to interrupt, but I think the exchange  
2 you're talking about is on the monitor in front of you now; is  
3 that correct?

4 A. No. That's before that.

5 Q. There was an earlier reference?

6 A. It was an earlier reference because that framed the whole  
7 discussion. And so when Mr. Alhaggagi is talking about "fag,"  
8 if you remember the Pulse was actually a gay discotheque. So  
9 there was rumors that maybe Mr. Mateen was gay or something  
10 like that, was an antigay type of attack, which turns out not  
11 to be the case.

12 But I think that was really kind of the background of all  
13 those denigration of gay. Yes, "I was so happy about Orlando  
14 brothers. I live close to San Francisco," and so on. That's  
15 correct, that is the background of this.

16 Q. One of the things Mr. Alhaggagi says here is (reading):

17 "I'm going to handle them right. LOOOOL."

18 What does that mean?

19 A. LOL is laugh out loud, and so this is laugh out out out  
20 out loud. It's an emphasis.

21 Q. If you could go on to the next slide, he says (reading):

22 "I'm going to tear the city up. The whole Bay Area is  
23 going to be in flames."

24 Followed by four laughing emojis.

25 These are pretty grandiose claims that are being made,

1 especially if you go to the next slide (reading):

2 "My ideas are genius." Laughing my ass off with a lot  
3 of Os. "I'll probably get near 500 but my goal is  
4 10,000."

5 What does the large-scale grandiosity of these claims tell  
6 you, if anything?

7 **A.** Well, this is very typical of Mr. Alhaggagi; namely, he  
8 escalates, he escalates, he escalates to see where the other  
9 person is going to say, "Hey, timeout. Let's be real here.  
10 This is nonsense."

11 But instead what he gets is "This is great. This is  
12 fantastic." He could not believe that the more ridiculous and  
13 the more grandiose he was sounding, the other person was still  
14 saying, "Oh, this is fantastic. Let's do that, brother."

15 **Q.** On the next slide (reading):

16 "My aim is to get 10,000 people."

17 On the next slide (reading):

18 "I'm going to redefine 'terror.'"

19 To which the CHS responds (reading):

20 "Even the best operations lately haven't come close to  
21 500."

22 Is this what you're referring to when you say that he is  
23 getting positive feedback?

24 **A.** Yes.

25 **Q.** And then finally I want to ask you specifically about the

1 exchange on the next page, which has to do with strychnine.

2 One of the things that Mr. Alhaggagi claimed he was planning to  
3 do is obtain strychnine online. Did you discuss that with him?

4 **A.** Yes.

5 **Q.** And did he follow through on that?

6 **A.** No, he did not.

7 **Q.** There is evidence in the record that you reviewed that he  
8 went online and looked at a website where apparently you could  
9 purchase strychnine. Have you seen that?

10 **A.** Yes. He went to the Alibaba website to find out what  
11 strychnine looked like because before he went online, he said  
12 he was going to use the strychnine in drinks. And as you can  
13 see in the report that he sent to get the bomb manual, that's  
14 exactly what he said. He said, "I'm going to use the  
15 strychnine in drinks to poison people."

16 But while he was on-site, he was asking the Alibaba  
17 salesperson, he said, "What does it look like?"

18 And the Alibaba salesman said, "Just a white powder" --  
19 "Just a powder."

20 And he said, "What color is it?"

21 And the salesman said, "It's white."

22 And so then he said, "Oh. Maybe I'll mix it with  
23 cocaine."

24 So about two hours after he was on the Alibaba website, he  
25 said, "It looks like cocaine. I could mix it with cocaine."

1 And so you can see that this is typical Mr. Alhaggagi. He  
2 actually does his homework. When he trolls people, in order to  
3 make himself more credible, he actually goes to the site, finds  
4 out about the products. Whether it's bomb making, whether it's  
5 strychnine, whether it's satanic cults, he goes on the site,  
6 finds out about it so it makes him sound a little bit more  
7 credible.

8 And that's basically what happened here, he found out it  
9 was white powder so that gave him the idea of cocaine.

10 Q. Did he actually follow through on any -- did he have  
11 access to cocaine, for example?

12 A. Not that I know of, no.

13 Q. Did he buy strychnine?

14 A. No, he never did.

15 Q. Did he take any steps that you're aware of to carry out  
16 any of the plans that he described in the slides we've been  
17 through and in other exchanges with the CHS?

18 A. No. Just all talk and to see what's the reaction of the  
19 other person. He told me he wanted to look like a bad ass to  
20 the CHS so that the CHS would both admire and be scared by him.

21 Q. Your task here was to evaluate two things, whether he has  
22 an ideological commitment to an extremist mentality and whether  
23 he poses a risk of danger.

24 How do these statements that he's made factor into your  
25 opinion on the first part of that, that he does not espouse

1 radical beliefs? Do they affect your view there?

2 **A.** Well, there are two hypotheses here. He's either trolling  
3 people or he's a real jihadi, and so you have to decide. And  
4 so you try to accumulate as much evidence confirming or  
5 refuting either hypothesis. That's how it's done.

6 And here talk is cheap and people -- there are so many  
7 people on the Internet claiming all kind of things. I'm old  
8 enough to remember the *New Yorker* cartoon of a dog in front of  
9 a computer saying, "On the Internet nobody knows you're a dog."  
10 And that's very much my relationship to the Internet.

11 And so I want to see a little bit more offline activity  
12 carrying through some of the things that he says online. But  
13 as you can see, there's very little. I mean, there's just  
14 about potential attacks. There's not that much justification  
15 or signs of knowledge of the ideology of a jihadi group. There  
16 is no cursing of the United States that I see of a lot of other  
17 jihadis that, you know, I've interviewed or seen. People are  
18 very negative about the United States. It's the enemy and they  
19 explain why they want to go after the United States.

20 Here there's none of that in those exchanges, and that  
21 surprised me. But, you know, I wanted to see more activity  
22 offline to see whether he carries through some of the threats.

23 **Q.** Is he a jihadi? Does he have a jihadi mentality?

24 **A.** He does not seem to have any action. He just talks on the  
25 Internet and says all kinds of very nasty things. Not just

1 attacks but to people that he trolls, mostly women, and very  
2 disgusting, obscene things. He's not a nice guy.

3 **Q.** So you said that what you were looking at in order to try  
4 to answer this question, is he a jihadi or is he a troll, was  
5 his action in the real world, actual steps taken. And the next  
6 thing that happens in the chronology here is that the CHS puts  
7 Mr. Alhaggagi in contact with someone who is supposedly his  
8 uncle who is, in fact, an undercover agent who we've been  
9 referring to as the UCE, and let's continue to call him the  
10 UCE.

11 Mr. Alhaggagi meets with the UCE. So now he has taken a  
12 step in the real world. He has moved from purely online  
13 activity. How does -- his willingness to take that step, why  
14 doesn't that mean to you that he is espousing an ideology or is  
15 willing to commit political violence?

16 **A.** He has developed this relationship over a week with CHS  
17 who sends him out of the blue his cousin or uncle -- sometimes  
18 referred to cousin, sometimes referred to uncle I think -- and  
19 he said that his relative, the UCE, is on his way to meet him,  
20 as he's texting Mr. Alhaggagi, and he had burned all his  
21 bridges in Utah where he allegedly was from. It's a 10-hour  
22 drive. And could he meet in a few hours at the mosque in  
23 downtown Oakland.

24 Mr. Alhaggagi felt a little bit guilty that he was the  
25 cause of this person leaving Utah and coming to see him, and he



1 kind of felt stuck and obligated to at least see him. And I  
2 think he was curious at the same time. He didn't know what to  
3 expect, and so he saw him. I mean, there was no commitment  
4 either way.

5 **Q.** And I think you rightly corrected me. I think I said  
6 "uncle." It was cousin.

7 With the UCE, he then has had in-person conversations  
8 about, I think, all of the various things he had discussed  
9 doing with the CHS and additional ones as well. Why is -- his  
10 willingness to have these conversations in the real world with  
11 someone who is posing as an Al-Qaeda member, why does that not  
12 indicate to you that he is dangerous?

13 **A.** Well, at that time he's not an Al-Qaeda member. I mean,  
14 he thinks he's just a wannabe who's a Muslim and he's upset  
15 that he lost his job in Utah. And the fact that the UCE, the  
16 cousin, is Al-Qaeda comes a little bit later in the  
17 conversation. So he basically thinks that this guy is putting  
18 him on; and, as he told me, "You know, I lied to him, he lied  
19 back to me," and that was kind of their relationship.

20 But he told him about the three sets of attacks that he  
21 outlined in his report to the bomb maker, the same attacks.  
22 You know, set fire to Berkeley hills, poison with strychnine a  
23 large number of people, and then set off multiple explosions  
24 through backpacks, especially the Berkeley dormitories and  
25 perhaps some gay bars or discotheques.

1 Q. You said that Mr. Alhaggagi said to you, "I lied to him,  
2 he lied to me." What did Mr. Alhaggagi think the UCE was lying  
3 to him about at the time?

4 A. I think he was lying to him being Al-Qaeda.

5 Q. Mr. Alhaggagi did not think the UCE was Al-Qaeda?

6 A. I think he was a wannabe who wanted to be -- just like  
7 Mr. Alhaggagi wanted to look fierce so I think he felt he  
8 embellished his background. There was no doubt that in  
9 Mr. Alhaggagi's mind that this guy was at least a sympathizer  
10 or, you know, very close to Al-Qaeda.

11 He did not look like an Al-Qaeda guy, and by that I mean I  
12 think that in Mr. Alhaggagi's mind, you know, people think  
13 terrorists are 10 feet tall and, you know, they're strong and  
14 so on; and this guy, who is in his late 40s, was very skinny,  
15 did not really fit that profile of a strong person. So he  
16 didn't really feel very much intimidated by this guy, and at  
17 the same time he really thought that this guy was bullshitting  
18 him just as he was bullshitting the guy.

19 Q. Did there come a point where Mr. Alhaggagi's views changed  
20 on that, about whether the UCE was who he was pretending to be?

21 A. Yes. Two and a half weeks later.

22 Q. What happened then?

23 A. I think that the UCE took him to a storage place where he  
24 showed him I think it was 4- or 5-gallon buckets filled with  
25 ammonium nitrate, which are the main ingredient of the main

1 charge of some bombs, including what looked like maybe  
2 detonator thus far. And he said, "Oh, my God, what did I get  
3 into? This guy actually may be the real thing." And at that  
4 point things got, as he told me, real very quickly.

5 **THE COURT:** Were there actual containers?

6 **THE WITNESS:** Yes.

7 **MR. GUGELMANN:** There were actual containers of  
8 supposed -- of supposed material.

9 **MR. HASIB:** What appeared to be explosives,  
10 Your Honor, mock explosives.

11 **THE COURT:** So somebody looking at it but not  
12 sophisticated in chemistry --

13 **THE WITNESS:** Would be scared.

14 **THE COURT:** -- would reasonably believe that they were  
15 vats of --

16 **THE WITNESS:** Ammonium nitrate.

17 **THE COURT:** Okay. Thank you.

18 **MR. GUGELMANN:** It was material that was mocked up to  
19 appear as if it was actual explosive material.

20 **THE COURT:** All right.

21 **BY MR. GUGELMANN:**

22 **Q.** What did Mr. Alhaggagi do after being shown the barrels or  
23 the buckets of explosive material?

24 **A.** Well, he tried to delay the action by saying that he was  
25 going to get all the supply -- the rest of the supply for the

1 bomb making -- and those were going to be car bombs I think or  
2 truck bombs because they're large containers and on car bombs  
3 those are not backpack bombs in a sense -- and started avoiding  
4 meeting the UCE.

5 Now, UCE had told him that he was going to leave the  
6 country the first week of December to go to Hajj because that's  
7 when Hajj takes place. So he calculated very quickly that if  
8 he could delay him for two weeks, three weeks, the UCE would  
9 leave and nothing would happen.

10 Q. You said he told the UCE that he would get all the  
11 supplies. Did he know what supplies to get?

12 A. No. The UCE texted him the list of supplies to get.

13 Q. Did Mr. Alhaggagi get those supplies?

14 A. No. Nothing.

15 Q. Did he tell the UCE he had gotten them?

16 A. He said he had half of it and he asked a friend to get  
17 some more; and after two days, he stopped communication with  
18 both the UCE and the CHS.

19 Q. Did Mr. Alhaggagi in your opinion figure out that the UCE  
20 was actually an undercover agent?

21 A. No. I think that was the last thing on his mind.

22 Q. As you're aware, the Government has proposed a theory that  
23 Mr. Alhaggagi was testing the UCE throughout the course of  
24 their relationship, their interactions, and ultimately figured  
25 out he was an agent and that's why he disappeared.

1 Do you see any evidence to support that theory in your  
2 view?

3 **A.** No, I don't.

4 **Q.** Do you see any evidence that Mr. Alhaggagi was testing the  
5 UCE?

6 **A.** No.

7 **Q.** Were Mr. Alhaggagi's interactions with the UCE, in your  
8 view, consistent with those of someone who suspects that they  
9 might be dealing with an agent or an informant?

10 **A.** No, because -- kind of the opposite because basically what  
11 Mr. Alhaggagi did, he kind of basically fled home and hid at  
12 home. And this may be effective against a stranger who does  
13 not know whether you're armed at home and you're protected at  
14 home so you assume that that stranger is not going to go and  
15 find you at home.

16 Now, if that were the FBI, home is the last place you want  
17 to be because the FBI knows exactly where you live. I mean,  
18 indeed, I think that the UCE picked him up from home at one  
19 time. And the FBI can come with SWAT teams. I mean, even bad  
20 B movies don't really have people hiding from the Feds. at  
21 home. They go and hide in a random place or they try to leave  
22 the country. That doesn't make sense.

23 **Q.** One thing we have not discussed so far in terms of  
24 Mr. Alhaggagi's actions is that in the course of these  
25 interactions where he is having the conversations with the CHS

1 and then the UCE, he is also committing crimes in the real  
2 world. He is also committing identity theft crimes.

3 A. That's correct.

4 Q. Did you discuss those with him?

5 A. Yes.

6 Q. Did he stop committing those crimes when he withdrew from  
7 his interactions with the UCE?

8 A. No. The FBI witnessed him picking up a package of goods  
9 that he ordered on the false identity. I think one was on  
10 August 1st and the second was several weeks later. So he  
11 continued.

12 Q. And is it consistent, in your experience, for someone who  
13 believes they're the subject of an undercover operation to  
14 commit crimes like that?

15 A. No. You would lay low and you wouldn't do anything  
16 anymore.

17 Q. Mr. Alhaggagi also discussed the slides that we went  
18 through and other things that he said. He discussed those  
19 plans with the CHS before meeting the UCE. Is that behavior  
20 consistent with someone who is suspicious about the possibility  
21 of being under surveillance or the subject of an undercover  
22 operation?

23 A. No. If you want to vet somebody to see whether you can  
24 trust a person, you vet that person before you tell them all  
25 your secrets. I mean, that's the whole point of vetting. You

1 don't tell them all your secrets and then say, "Oh, by the way,  
2 are you the real thing?"

3 Now, if you look at the conversation, from the very start  
4 that he got into the UCE's car, the first time that they met on  
5 July 29th, he told him everything. He was going to do  
6 strychnine. He was going to set fire to the Berkeley hills,  
7 and actually the UCE told him a better way of doing it.

8 Q. And I'm going to stop you there.

9 A. Right.

10 Q. That's a portion of the Government's brief that was sealed  
11 so we won't discuss that.

12 A. No, but I'm not going to say any more on that, just a  
13 better way. And the bombings, the various bombings.

14 And the conversation about Al-Qaeda really came as the UCE  
15 told him, "Well, some brothers are supporting me."

16 And so he said, "Who's that? Al-Qaeda?"

17 And the UCE said, "Yes."

18 And then I think there was a gap and Mr. Alhaggagi was not  
19 trying to vet him for Al-Qaeda; but at that time Al-Qaeda and  
20 the Islamic States were fighting in Syria so he's asking him,  
21 "What's with Al-Qaeda now?" I mean, it's just kind of  
22 information.

23 And, indeed, later that evening he asks the same question  
24 to the CHS. He said, "Do you follow what's been happening  
25 between the Islamic State and Al-Qaeda? You know, I'm lost.

1 Why do they fight together?"

2 And the CHS said the same thing, he says, "I can't make it  
3 out. So let's just fight the West, the *kufr*."

4 **Q.** Another part of the theory that the Government has  
5 advanced is that the UCE made some mistakes in their  
6 interactions which alerted Mr. Alhaggagi to the possibility or  
7 the likelihood that he was an undercover agent. One of those  
8 is that in the conversation I think you were just discussing he  
9 mentioned Iran and expressed some support in a general sense  
10 for Iran.

11 Would that have alerted someone in Mr. Alhaggagi's  
12 position that the person he's dealing with is not a potential  
13 Al-Qaeda member?

14 **A.** No. Al-Qaeda actually has a fairly good relationship with  
15 Iran; and, as a matter of fact, I think the only -- except for  
16 al-Zawahiri, who is the head of Al-Qaeda, most of the other  
17 senior members of Al-Qaeda are in Iran. They found sanctuary  
18 in Iran; namely, the head of military operation, a guy named  
19 Saif al-Adel -- A-D-E-L, Adel; Saif is S-A-I-F; al then Adel.

20 And in 2006, there was a very famous letter that Ayman  
21 al-Zawahiri -- I'm sorry, Zawahiri is Z-A-W-A-H-I-R-I -- had  
22 written to at that point the forerunner of the Islamic State  
23 and the head of the forerunner was a guy named Zarqawi --  
24 Z-A-R-Q-A-W-I -- telling him not to kill Shi'a, that they  
25 should instead focus on the West fighting Americans in Iraq.



1 And so Al-Qaeda, the Al-Qaeda that's in Afghanistan, had good  
2 relationship with both Shi'a and Iran.

3 Q. Part of the Government's theory here is that in discussing  
4 Iran, the UCE inadvertently aggravated Mr. Alhaggagi because  
5 Mr. Alhaggagi has a particular antipathy towards the Shi'a. Is  
6 that the case in your view of the evidence?

7 A. I haven't seen any evidence that really he disliked Shi'a.  
8 On the contrary. I think that he had Shi'a friends when he was  
9 in Yemen and he treated Shi'a and jihadi the very same way when  
10 he was trolling them on the Internet. So, no, I did not find  
11 that he had an antagonism towards Shi'a.

12 Q. You mentioned Ayman al-Zawahiri. Did the UCE make a  
13 mistake by revealing to Mr. Alhaggagi that he didn't know who  
14 Ayman al-Zawahiri is? And just you said this but Ayman  
15 al-Zawahiri, the leader of Al-Qaeda.

16 A. Yes, I heard that. I saw the video and I heard that, and  
17 I could not make out the name of what I call Zawahiri. He  
18 pronounces very differently. He doesn't put the emphasis on  
19 the first syllable like I do, like most Westerners do. He  
20 pronounces it in an Arabic way, and I'm pretty sure that a  
21 person speaking Dari, which is -- Dari, D-A-R-I -- which is a  
22 form of Iranian Farsi -- F-A-R-S-I -- would probably pronounce  
23 it in the Western way as opposed to the Arabic way.

24 So he repeated Zawahiri three times. I could not  
25 understand, and finally I figured out that it was Zawahiri.

1 But as soon as the UCE realized it was Zawahiri, he knew  
2 exactly who Zawahiri was and even compared him in terms of how  
3 he speaks to Bin Laden who speaks very softly, where Zawahiri  
4 speaks very forcefully and he liked that. He said he liked the  
5 forcefulness of Zawahiri.

6 **Q.** So I just want to be sure the record's clear because there  
7 were several "hes" in there. You're saying that Mr. Alhaggagi  
8 has a different -- used a different pronunciation of Zawahiri's  
9 name that you did not understand at first in listening to the  
10 video, that it appears the UCE did not understand in listening  
11 to Mr. Alhaggagi, but then once the UCE understood the name he  
12 was saying, it was evident he knew who Ayman al-Zawahiri is?

13 **A.** Yeah. I think you summarized what I tried to say. Thank  
14 you.

15 **Q.** Didn't Mr. Alhaggagi tell the CHS that he suspected that  
16 the UCE was an agent?

17 **A.** Yes, he did. He did I think after the second meeting.

18 **Q.** And why is that not an indication to you that  
19 Mr. Alhaggagi was working on and ultimately did figure out that  
20 the UCE was an agent?

21 **A.** That's because speaking to the CHS is the same as speaking  
22 to the UCE. It's the CHS who introduced the UCE. They're in  
23 close contact with each other. And, as a matter of fact, a day  
24 or two later when he discussed something to the CHS, the UCE  
25 calls him immediately and wanted to talk about that.

1           So you can see that if you cannot say to the -- to me it's  
2 almost like one and the same person but if you tell the CHS,  
3 "Oh, at first I thought that he may be an undercover or he may  
4 be a Fed.," then you basically don't really believe it anymore  
5 because you're not going to say, "You know, I don't trust your  
6 cousin. He's a Fed. and I'm not going to see him."

7           But instead he said, "You know, I didn't really think -- I  
8 thought at first he was a Fed. and, hahaha, let's laugh about  
9 it."

10          And the cousin said, "Well, we thought you were also a  
11 Fed., hahaha." You know, shake my head I think was how they  
12 said -- SMH, shake my head, was how they had it in the text.

13 **Q.** Last question on this issue. One of the things that  
14 Mr. Alhaggagi supposedly did to test the UCE was threaten to  
15 beat someone up knowing, in the Government's theory, that this  
16 would require the UCE as a law enforcement agent to intervene  
17 and stop a violent crime from happening. Is that consistent  
18 with what you see in the evidence?

19 **A.** No. He did not tell the UCE that. I think he tweeted  
20 that -- he texted that in the middle of the afternoon to the  
21 CHS, that he was going to beat up somebody and take \$5,000 from  
22 that person and was kind of avoiding the CHS at the time -- no,  
23 not CHS -- I mean, he was avoiding the UCE at the time.

24          And I think that the UCE triggered an emergency meeting  
25 four hours later to see him, and he said, "I'm half a block

1 away. I need to see you now."

2 And he -- he actually did not want to answer the phone but  
3 one of his friends did answer and said, "Oh, you have a guy  
4 who's like half a block away. He wants to see you." So I  
5 think he saw him. That was on August 10th. So it was the  
6 third meeting between them.

7 **Q.** And do you see any indication, either in the evidence in  
8 the communications or from your interactions with  
9 Mr. Alhaggagi, that he knew that this sort of threat would  
10 require the UCE to respond in a certain way if the UCE was, in  
11 fact, an agent?

12 **A.** No. I don't -- I don't know if Mr. Alhaggagi knew this  
13 was the case. I don't even know whether this is actually the  
14 case, but I can -- I can very much identify with the FBI agent  
15 listening to that and said, "Oh, my God. We may be complicit.  
16 We have to stop it." And so I can see it from their point of  
17 view, but I don't think that from Mr. Alhaggagi's point of view  
18 he was that sophisticated that he might have expected that  
19 reaction.

20 **Q.** If Mr. Alhaggagi didn't figure out that the UCE was an  
21 agent, why in your view did he retreat from his interactions  
22 and then ultimately actually run away from the UCE and their  
23 last meeting?

24 **A.** It was the sight of those four buckets full of ammonium  
25 nitrate that said, "My God, this is real. This is not a joke."

1 He treated it as a joke before that.

2 **THE COURT:** About how much longer do you have? I'm  
3 not trying to hurry you. I'm just trying to deal with  
4 recesses.

5 **MR. GUGELMANN:** I think this would be a good time for  
6 a recess.

7 **THE COURT:** Okay. Ladies and gentlemen -- well,  
8 Counsel, we're going to take a recess. We'll resume at  
9 1:00 o'clock. Half an hour recess.

10 (Luncheon recess taken at 12:28 p.m.)

11 **Afternoon Session**

**1:04 p.m.**

12 **THE COURT:** Let the record show the defendant is  
13 present, the parties are present.

14 You may continue, Mr. Gugelmann.

15 **MR. GUGELMANN:** Thank you, Your Honor.

16 **Q.** Dr. Sageman, before the break, we were talking about  
17 whether Mr. Alhaggagi figured out that the UCE was, in fact, an  
18 agent. Prior to your life in academia, you had operational  
19 experience in intelligence and counterintelligence; is that  
20 correct?

21 **A.** Yes.

22 **Q.** Can you describe a little bit of that part of your  
23 history?

24 **A.** Well, I was a case officer at the CIA. I ran spies. I  
25 also controlled most of the major Mujahideen commanders --

1 which Mujahideen is pleural -- against the Soviets during the  
2 Afghan-Soviet war. I ran very highly secret sources within the  
3 Indian government and Pakistani government when I was over  
4 there.

5 Then I did the opposite 20 years later; namely, when I was  
6 both at the NYPD and the Army, I was the special adviser to the  
7 deputy chief of staff and he trusted me so he wanted me to  
8 actually evaluate people, and so I both evaluated potential  
9 terrorists and potential traitors.

10 And so I got all the information that the FBI had, and  
11 much of it was the FBI giving us the information. And on the  
12 basis of that, I would go and interview them to determine  
13 their -- the probability that they may turn violent or may be a  
14 threat to the United States; i.e., providing secrets to the  
15 enemy.

16 **Q.** And as part of your operational experience, did you have  
17 to worry at that time about the concern of counterintelligence  
18 or agents from other governments who were trying to figure out  
19 what your agents were doing?

20 **A.** Yeah, very much. I also looked over the double-agent  
21 program within the Army.

22 **Q.** And so are you familiar with the way someone who's  
23 experienced in intelligence work would go about vetting a  
24 counterpart for potential -- to see if they were potentially an  
25 undercover agent?

1     **A.**    Oh, I see what you're getting at.  Yes.

2     **Q.**    And in your opinion, is what Mr. Alhaggagi did in this  
3     case consistent with the way someone who understands  
4     intelligence work would have vetted potentially someone who  
5     they suspect of being an agent for the other side?

6     **A.**    No.  He went about it completely the opposite of what we  
7     would do.  The vetting is upfront to make sure that you trust  
8     the person and you can share secrets with that person.  You  
9     don't share secrets with that person and then, as an  
10    afterthought, try to, quote, "vet them."

11   **Q.**    Mr. Alhaggagi, as we discussed, started with online  
12   contact with the CHS.  He moved into real-world contact with  
13   the UCE.  In your experience of interviewing and studying  
14   terrorists, is that a pattern that you see in people who are  
15   actually serious about making an attack?

16   **A.**    Well, there are two types of attacks.  There are attacks  
17   coming from the outside and so people are trained outside and  
18   they come back to the country and carry out the attacks, like  
19   the 7/7/2005 bombings in London; or they are homegrown attacks,  
20   people who decide on their own to go and carry out attacks.

21           There is no evidence that here we have a case of the  
22   former; namely, people trained outside to come back to their  
23   home country and carry out attacks.

24           So the question is:  Is this consistent with people  
25   carrying out attacks here who are homegrown?  And not really.

1 Most people are a little bit more discreet and secret about  
2 what they want to do. They don't want to get caught. They try  
3 to develop a rapport of trust with the other person, and they  
4 do things in furtherance of their attacks beforehand. They buy  
5 material. They often train. They go out and do paramilitary  
6 things. They do paintball exercise because they think they're  
7 soldiers so they do soldierly things. And none of that was  
8 present in this case.

9 **Q.** After Mr. Alhaggagi cut off contact with the UCE, he  
10 eventually was back online and started using the Telegram app  
11 again. Can you explain in your understanding how that came  
12 about and why he did that?

13 **A.** Well, I think that he laid low for about a month and a  
14 half after the fifth meeting with the UCE when the UCE  
15 basically surprised him on the street and just ran away from  
16 him, a month later after that fourth meeting that we spoke  
17 about earlier. And so there he didn't do anything but just  
18 being at home and hiding at home but not really even going out.

19 That really got to him and he was bored out of his mind so  
20 he started slowly getting back to the Internet, and then he was  
21 back full-time on the Internet about a month and a half after  
22 the last mishap with the UCE. Yeah, with the UCE.

23 **Q.** In your view, is the reason that he -- let me just take a  
24 step back.

25 He got back online. He started using the Telegram app.



1 He was then, again, in ISIS or ISIS-related chat rooms; is that  
2 your understanding?

3 **A.** He was in many chat rooms, and so he was on Shi'a chat  
4 rooms. He was on ISIS chat rooms. He was mainly on Yemeni  
5 chat rooms where they tell jokes about Yemen. And he created  
6 his own chat room to try to invite girls to come so that they  
7 could troll them.

8 **Q.** His participation in the ISIS-related chat rooms, from  
9 what you have seen in the evidence and learned from him, was  
10 that a way that he was trying to find a different way of  
11 supporting ISIS because his real-world plans had been thwarted?

12 **A.** No. He basically -- and he clearly said it to his best  
13 friend online, a guy named YMN, which is those three letters,  
14 YMN -- I call it Yemen, but that's how he appears on the  
15 Telegram chat room -- that they would participate in both Shi'a  
16 and jihadi chat rooms and basically say that the other guys are  
17 the enemies in order to get them kicked out of the chat room.  
18 It was a game for them. And so that's what he did. He did not  
19 really participate in order to further the goals of ISIS.

20 **MR. GUGELMANN:** Can you put up the next slide?

21 **Q.** So on the screen in front of you is a line taken from  
22 Defense Exhibit I, which is a chat between Mr. Alhaggagi using  
23 the handle Zain -- Z-A-I-N -- and the person you referred to as  
24 YMN.

25 And in the quote we see here Mr. Alhaggagi is speaking and

1 he says (reading):

2 "I took their identifiers to the *dawa'ish* and told  
3 them 'These are Shiites, block them'; and I took it to the  
4 Shiites and told them 'These are *dawa'ish*, block them.'  
5 What does the word "*dawa'ish*" mean?

6 **A.** "*Dawa'ish*" is the four letters in Arabic of the  
7 Islamic State of Iraq and we call it Syria but they call it  
8 Levant, which is sometimes why we call it ISIL instead of ISIS.  
9 And those represent four initials. But it's a very derogatory  
10 way of referring to the Islamic State. Mostly jihadi call it  
11 *dola*, which is in Arabic the state, just the state. It means  
12 the state. *Dola* so they call it the state.

13 The fact that he refers to them as *dawa'ish* means that he  
14 did not think highly of them. This is what other people kind  
15 of refer to the Islamic State when they think in a derogatory  
16 way.

17 **Q.** Is it consistent, in your experience, with having an  
18 actual commitment to the ideology of ISIS to use the term --  
19 and you corrected my pronunciation -- *dawa'ish* to refer to  
20 them?

21 **A.** No. It's the contrary. It's a derogatory term for the  
22 Islamic State. So that means they don't share the same  
23 ideology. They don't share the same belief. They're very much  
24 on the other side.

25 **Q.** So you explained what you understood to be the context for

1 this quote; and since it's a little bit complicated, I want to  
2 go through that a little more step by step.

3 When he says here "I took their identifiers," meaning  
4 their screen names, "to the *dawa'ish* and told them 'These are  
5 Shiites, block them,'" what is it exactly you understand he is  
6 describing there? What is he doing?

7 **A.** He's telling the other people on that chat group that the  
8 people with the following handles are enemies, they're Shi'a.  
9 So this is on an Islamic State chat room. And you should  
10 complain to administrator and have them blocked from Telegram  
11 altogether.

12 **Q.** And then he's saying that he took it, meaning the same  
13 identifiers, "to the Shiites and told them 'These are *dawa'ish*,  
14 block them.'" What does that mean?

15 **A.** It's doing the exact same thing, but on a Shi'a chat group  
16 to say that the other guys are jihadis and get them off  
17 Telegram.

18 **Q.** And did he explain to you why he was doing this? How did  
19 this come about that he was posting handles in the ISIS chat  
20 rooms and saying "These are Shiites, block them," and doing the  
21 same in the Shiite chat rooms?

22 **A.** He was constantly being kicked out of Telegram by both  
23 groups actually and by women, and so he wanted to have revenge  
24 and that's -- that was a joke to him. That was his game. He  
25 and YMN both did that, and they got kicked out or blocked by

1 people, by participants in the respective chat groups that they  
2 were trolling.

3 Q. Was he being blocked, as far as you understand it, because  
4 he was espousing a terrorist ideology or being anti-American,  
5 or what was the reason that he was being blocked?

6 A. He was being blocked because -- for many reasons. Some of  
7 the women complained that he was just very rude and insulting  
8 to them so they kept blocking him. And the other two assumed  
9 that he was an enemy in their group and tried to block him  
10 before -- because of that.

11 I don't think he really talked too much about his ideology  
12 in any of those chat groups because actually he doesn't know  
13 that much about the ideology.

14 Q. And do you see any evidence that -- after he got back  
15 online after leaving the UCE, did he engage in similar chats,  
16 similar to those he had had with the CHS describing attack  
17 plans, that sort of thing?

18 A. No. That he stopped. That he stopped. I didn't see any  
19 more reference to attacks in the United States, and he was a  
20 little bit more cautious about revealing his true identity, and  
21 he had changed his handles. And he had several handles,  
22 including women, feminine handles.

23 Q. The chat we looked at earlier this morning where his  
24 handle was Qurrat al-'Ayn, that's a female name; right?

25 A. That's correct, yes.

1 Q. What do you understand -- Mr. Alhaggagi ultimately opened  
2 social media accounts at the request of two different  
3 individuals who he understood to be ISIS followers or  
4 supporters. Can you draw the connection between that conduct  
5 and what we were just discussing here on the exhibit with  
6 Mr. Alhaggagi's actions in posting user names in ISIS chat  
7 rooms?

8 A. Yes. So both instances happened at the time he was being  
9 kicked out of Telegram altogether actually. The first one  
10 happened at the end of October, early November, and the second  
11 in the middle of November. And so he needed to have allies to  
12 retaliate for him since he was blocked from the sites. And so  
13 he tried to curry favor with some of the participants, and he  
14 told me that the jihadis were by far more aggressive than the  
15 Shi'a, and so he basically tried to curry favor with the  
16 jihadis on the chat rooms.

17 Q. And how does that relate to his opening the social media  
18 accounts?

19 A. Well, the jihadi in the chat room account were asking him,  
20 "Well, somebody's going to contact you and we'd like to open an  
21 account." So the first one was Bank Al-Ansar, meaning the bank  
22 of followers -- in Arabic bank is B-A-N-K, al-Ansar is A-L and  
23 then A-N-S-A-R -- who asked him to open some Facebook and  
24 Twitter account I think, and he did so.

25 And then the second was from a fellow who was posting at

1 the same time that he was being kicked out, a guy named  
2 Munasir -- M-U-N-A-S-I-R -- who said that somebody's going to  
3 contact him, and so somebody did. That person was called  
4 Abu -- A-B-U -- Muharib -- M-U-H-A-R-I-B -- Iraqi --  
5 I-R-A-Q-I -- and that person asked him to open some account.  
6 So he opened about, I guess, five Twitter accounts for  
7 Abu Muharib. And when he was finished, you know, he said that  
8 he had done enough to curry favor and he ignored further pleas  
9 to open more accounts.

10 **Q.** Further requests from Abu Muharib for additional accounts?

11 **A.** That's correct. Yes, that's correct.

12 **THE COURT:** So let me ask you about these two  
13 openings.

14 **THE WITNESS:** Right.

15 **THE COURT:** I just need to go through the reasoning  
16 again. You said that he was motivated, in your opinion, by the  
17 fact that he had been excluded from what exactly?

18 **THE WITNESS:** All right. I think, Your Honor, if you  
19 can show the line of the administrator from Telegram excluding  
20 him from Telegram, you will understand why he was so upset for  
21 being excluded.

22 **THE COURT:** So, in other words, he was excluded from  
23 Telegram?

24 **THE WITNESS:** Right. He was --

25 **THE COURT:** And what was his understanding of

1 Telegram?

2           **THE WITNESS:** Well, Telegram is just this software app  
3 that there is an administrator. I think they're Russians. And  
4 when people misbehave, they can limit their account for a  
5 certain number of days. So here I think it's about eight days.  
6 It's about eight -- a week.

7           And so, for instance -- and you can see this is on  
8 November 1st. You see on November 1st the administrator of  
9 Telegram says to him, sent him in English, and this I could  
10 understand because it was in English. It was not in Arabic.  
11 I'll let you read it.

12                               (Pause in proceedings.)

13           **THE WITNESS:** So he appealed, and the administrator  
14 said, "No. We investigated you and you did this. They don't  
15 like, you know, being insulted, and so on, so we're going to  
16 limit your account for eight days." So he basically had his  
17 account limited, and so he wanted to retaliate. He wanted  
18 revenge.

19           **THE COURT:** Revenge against?

20           **THE WITNESS:** Against the people who complained  
21 against him.

22           **THE COURT:** Oh, okay. So who did he understand were  
23 the people who were against him who had complained? What was  
24 his understanding as you understood it?

25           **THE WITNESS:** Well, the people who complain have to

1 have a direct relationship with him so he was able to identify  
2 them, and so he was going to give their handle to some people,  
3 some other people, so they can rally other folks to complain  
4 about the people who complained about him to the administrator  
5 so their account could be also limited.

6 **MR. GUGELMANN:** I think if we put up the next slide, I  
7 think that might help illustrate sort of the first step in this  
8 process.

9 So that's another interaction between Mr. Alhaggagi and  
10 it's called the spambot, and there Mr. Alhaggagi says  
11 (reading):

12 "I got into an argument in a public group, and the  
13 person I was arguing with got his friends to report me."

14 So I think Dr. Sageman is referring to "the person who I  
15 was arguing with" as the enemy.

16 **THE COURT:** Was there a particular political  
17 affiliation or identification with that individual? I mean, is  
18 it that he got into a dispute with somebody, an individual, who  
19 either did or did not represent a point of view or did or did  
20 not represent a government or did or did not represent  
21 something greater than just the individual themselves?

22 **THE WITNESS:** Yeah. So --

23 **THE COURT:** I'm trying to figure out whether it's a  
24 personal dispute or whether it's somehow a dispute related to  
25 an ideology.



1           **THE WITNESS:** No, no, no. So most of the people who  
2 were blocking him were women. And in this instance because he  
3 asked for help from jihadis, they were Shi'a were blocking him,  
4 but most of them were women.

5           And I think he gave me the name of the woman who was  
6 almost on a crusade, if I can say, against him. He gave me her  
7 name and she kind of pops up quite often, and she is against  
8 him because he basically was very rude and insulting to her.  
9 So it was not about the ideology.

10           **THE COURT:** But here's what I need to have explained.  
11 The defendant pled guilty to the crime of -- well, I don't have  
12 it exactly in front of me, but it was to assist other, quote,  
13 "terrorists" in promulgating their agenda or their plan or  
14 their desires.

15           Okay. Now what I'm hearing from this witness is really he  
16 opened up this account because there was a complaint by some  
17 women who he had offended by his message, and I'm trying to --  
18 well, that's not -- I mean, whether it be women or men or  
19 whatever gender, that's not a crime. I mean, people get into  
20 disputes all the time because somebody believes them to be  
21 insulted or believes them to have taken some inappropriate  
22 response. That's not a crime.

23           **MR. GUGELMANN:** So the issue here is the chronology of  
24 events. His actual crime was the last step in the chronology,  
25 which was he was approached by people who he knew or understood

1 were supporters of ISIS who said to him, "Please open these  
2 accounts." He did it. That's enough for material support of  
3 ISIS or attempted material support of ISIS as it's charged.  
4 The discussion that Dr. Sageman was having is the precursor  
5 event to that.

6 **THE COURT:** But then I'm trying to understand this:  
7 Is it the Defense position, or maybe it's -- I know I'm getting  
8 into a lot here, but if I'm having a dispute with somebody for,  
9 quote, what we'll call personal reasons, that's nonideological  
10 reasons, and then somebody who I know to be associated with a  
11 terrorist organization says to me, "Please open up an account,"  
12 and I do so for the purpose of assisting me in my personal  
13 dispute with that individual, even though I know that that  
14 person is associated with this terrorist organization, does  
15 that constitute a crime?

16 **MR. GUGELMANN:** The answer is yes if -- so I wasn't --  
17 it wasn't entirely clear to me from what the Court just said  
18 that the person who asked to open the account is different from  
19 the person with whom he has the dispute.

20 **THE COURT:** Yes, it is. As I understand it, those are  
21 the facts.

22 **MR. GUGELMANN:** Correct.

23 **MS. McNAMARA:** Yes.

24 **THE COURT:** Okay.

25 **MR. GUGELMANN:** But the opening of the accounts, for

1 whatever motivation, if it is done with knowledge that it is  
2 assisting a terrorist group is sufficient under the material  
3 support statute.

4 **THE COURT:** Think about what you said. And I think  
5 this is an argument that was raised in the Supreme Court,  
6 but --

7 **MS. McNAMARA:** That's right.

8 **MR. GUGELMANN:** The *Holder v. Humanitarian Law*  
9 *Project*.

10 **THE COURT:** I think it's supported sort of the  
11 opposite of what I'm going to say, but I think if I go to a  
12 terrorist organization for a nonterrorist purpose and I open up  
13 that account at the request of the terrorist organization,  
14 notwithstanding the fact that my motivation is nonterrorist,  
15 that is an act of terrorism.

16 **MR. GUGELMANN:** That is an act of material support or  
17 attempted support.

18 **THE COURT:** Material support of a terrorist  
19 organization.

20 **MS. McNAMARA:** Yes.

21 **THE COURT:** So putting it another way, somebody goes  
22 into a restaurant and he's a known member of this organization  
23 and he asks for food, he says, "I'm going to pay. I'd like a  
24 sandwich." And the proprietor gives him the sandwich and gets  
25 the money, that would be -- it sustains him knowing that he

1 needs sustenance. That would be a material support of a  
2 terrorist organization.

3 **MS. McNAMARA:** Yes.

4 **MR. GUGELMANN:** Under a strict reading of the law,  
5 that's correct.

6 **THE COURT:** That's what the Supreme Court has held.

7 **MS. McNAMARA:** Yes.

8 **MR. GUGELMANN:** Yes.

9 **THE COURT:** Okay. Thank you.

10 **MS. McNAMARA:** Your Honor, if I may, I think the Court  
11 has hit on the surprise I think of the material support  
12 statute, which is the mental element here is virtually nil.  
13 What counts is the provision of support; and that means under  
14 the law \$1 to ISIS makes you guilty of material support even if  
15 you were trying to help ISIS reform itself, even if you were  
16 trying to perform humanitarian assistance. It doesn't matter.  
17 You give the dollar, you're guilty of material support. That's  
18 the *Holder versus Humanitarian Law* case.

19 And that is why the statute has been so criticized in the  
20 academic literature. It embraces conduct like building a bomb  
21 on the extreme, which is what you would think of as material  
22 support, but it also embraces opening up an ISIS account for no  
23 ideological reason whatsoever and for an immature motive, which  
24 is to try to recruit these jihadis to spam your enemies. So it  
25 embraces conduct at both extremes.

1 We have no defense to it. This case from the very  
2 beginning has been about what's the appropriate sentence to  
3 such a heavy charge.

4 MR. HASIB: I think I'll -- I'd like to see where this  
5 goes, and then perhaps I can respond about *Holder* --

6 THE COURT: Okay.

7 MR. HASIB: -- in a moment.

8 THE COURT: Thank you.

9 BY MR. GUGELMANN:

10 Q. So, Dr. Sageman, I think we had gotten to -- we had  
11 discussed the genesis of his opening the accounts and the  
12 actual opening of them.

13 In your view, did Mr. Alhaggagi realize the significance  
14 of his actions in opening these accounts?

15 A. No. He did not think it was against the law at the time.

16 Q. Did he do it, in your view, because he was intending to  
17 benefit ISIS?

18 A. No. His view of the Internet is very much if it's on the  
19 Internet, it can't hurt anybody. That's what he told me.

20 Q. I want to ask about some of his other online activity that  
21 happened after the UCE -- after the end of the UCE  
22 interactions.

23 The Government has pointed to the fact that his search  
24 history shows that he searched for Halloween parties. And just  
25 to explain the background of this, one of the statements that

1 Mr. Alhaggagi made to the CHS had to do with using the  
2 strychnine plan on Halloween.

3 Does the fact that he searched online for Halloween  
4 parties after leaving the UCE tell you anything one way or the  
5 other about whether he was intending to carry out that plan?

6 **A.** Well, like anything else, I try to understand the context.  
7 You know, instead of contextualizing every element, I'm trying  
8 to understand what's going on.

9 And around the same time he was telling me that -- and  
10 that was not connected with the Halloween search. When I asked  
11 him, he was just telling me as an aside as an example of  
12 trolling, he got into trolling a wiccan group. Wiccan group,  
13 not weekend. Wiccan group. So basically people --

14 **THE COURT:** You mean wiccan?

15 **THE WITNESS:** W-I-C-C-A-N. Wiccans. They're paganist  
16 females often.

17 And they were praying for a hurricane to destroy Florida.  
18 And when Hurricane Matthew blew in in early October 2016, he  
19 sent them a message saying, "You're welcome."

20 And at the same time he was -- if you look two days later,  
21 I think this happened on the 12th of November and on the 15th  
22 of November he's searching for satanic cults.

23 **BY MR. GUGELMANN:**

24 **Q.** October, I believe.

25 **A.** I'm sorry. October. It was October 12th, and

1 October 15th he's looking at satanic cults.

2 But the way he searches, he just kind of Googles it, looks  
3 at the Google search and really doesn't go much further than  
4 that. So he's not really -- and the links that he clicked were  
5 not really links that a person would be casing such attack  
6 would link on. He was linking TripAdvisor, the Berkeley  
7 newspaper, San Francisco tourism, and the whole search lasted  
8 for 1 minute and 20 seconds.

9 So to me this was not significant. I mean, when you want  
10 to case a building, you want to case something, you look at the  
11 security. You surveil it for a while to see where police come  
12 and go. I mean, you do your homework, and then you can  
13 produce -- the way we were taught, you produce a report, a  
14 casing report, it's about 20 pages with pictures to show  
15 egress, exit, entry, where you're going to carry your act.  
16 This was not this thing.

17 And it's very similar to what he did, this kind of due  
18 diligence in a sense, to try to find out what things looked  
19 like when he's looking at those electric lighters. He, again,  
20 does that for about a minute, looks at a picture of it. He  
21 says, "Okay. That's what it is."

22 **Q.** And let me just interrupt to ask the question that would  
23 have led to that response.

24 One of the things that the Government has pointed to that  
25 he searched for in this period after his interactions with the

1 UCE was electric matches and igniters. So explain that.

2 **A.** Yeah. It's the same thing. Or he did the same thing with  
3 the strychnine. He looked at strychnine, realizes that Alibaba  
4 is selling strychnine. He doesn't know what it looks like so  
5 he looks at the site. He talks to a salesman and says, "Well,  
6 what does it look like?"

7 And he says, "It's a powder."

8 "Well, what color?"

9 "It's white."

10 "Ah, okay. So now I can troll people saying I can mix it  
11 with cocaine."

12 So you can see -- but he doesn't buy it. He just wants to  
13 know. And so you can see this pattern all the time in either  
14 his searches or how he does it. He wants to be a good troll on  
15 the Internet, and so he does his homework.

16 **Q.** Did you see anything in his online activities after he  
17 left the UCE that would lead you to believe that he is  
18 radicalized or that he was planning violence?

19 **A.** Well, I'm not sure what you mean by radicalized. It's not  
20 a term that I use.

21 **Q.** I understand. Did he -- I know you don't like that term.  
22 I apologize. That he was espousing extremist ideologies.

23 **A.** No, he definitely was not. And at the time that I even  
24 saw him in jail, I mean, he wasn't religious. It was during  
25 Ramadan. He wasn't fasting. He's not that religious so he



1 doesn't espouse to jihadi ideology and doesn't have the  
2 behavior of a jihadi, which is you can look like a jihadi, you  
3 have short pants because you have to have your pants above your  
4 ankles. A lot of people wear shalwar kameez, which are the  
5 Pakistani look. Some people have one of those rolled-up hats,  
6 which the Tajiks use. It's called pakul -- P-A-K-U-L -- hat.  
7 So he doesn't look like a jihadi and he doesn't behave like a  
8 jihadi.

9 He has interactions with women. He had two girlfriends.  
10 Usually this is very much frowned upon by the jihadis. They  
11 don't do that. They get married. There is no dating at all,  
12 and so that's why they have those musical chair marriage where  
13 they can marry, divorce, marry somebody else, divorce, marry  
14 somebody else. But there really is no sex outside of marriage.

15 So I don't see anything that's consistent with jihadi. So  
16 in that sense, he's not radicalized, perhaps your term, but he  
17 definitely does not sound like a jihadi, does not look like a  
18 jihadi, does not act as a jihadi.

19 **Q.** And what about a tendency or an inclination towards  
20 violence separate and apart from any jihadi ideology? Is there  
21 anything that you saw in the evidence here or in your  
22 interactions with Mr. Alhaggagi that would indicate that?

23 **A.** Well, as Your Honor pointed out earlier today, past  
24 indicators of violence are the best predictors of future  
25 indicators of violence, and this hasn't changed very much.

1 And there is no evidence that he had any kind of criminal  
2 record for violence in the past. He did seem to have a kind of  
3 a juvenile background, but it was never adjudicated because he  
4 just hung out at Berkeley smoking marijuana. That's about it.  
5 So he never got into trouble with the law.

6 And I -- so the only thing you can say about the  
7 probability of violence is really compare it to the base rate,  
8 and by that I mean you compare it with the rest of the  
9 population. And if you randomly select an individual from that  
10 population, he has a probability of violence. His is actually  
11 lower than this randomly selected individual because he has no  
12 background, he has no past violence where that randomly  
13 selected individual has a chance of having such a background.  
14 So it would be a little bit lower.

15 And besides, he's a coward and so, you know, the reason he  
16 just trolls online and not face to face is that he doesn't  
17 really want to meet people face to face. He was very, very  
18 alarmed to see the UCE come because it was a potential threat.

19 I mean, if he realized, you know, it was wasting the UCE's  
20 time, well, the UCE could get upset and beat him up. But when  
21 he saw the UCE and he said, well, you know, he's bigger than  
22 the UCE, well, that threat kind of diminished in his eyes.

23 So to make a long story short, no, I don't think he's more  
24 dangerous than a randomly selected individual in the general  
25 population.

1 Q. I want to ask you about the allegations that we were  
2 discussing this morning concerning Mr. Alhaggagi's conduct  
3 after he was arrested, and we'll keep it at sort of the same  
4 level of generality that we did this morning in discussing it.

5 Are you familiar with those allegations?

6 A. Yes, I am.

7 Q. And did you review the discovery that related to those?

8 A. Yes, I did.

9 Q. Did you discuss them with Mr. Alhaggagi?

10 A. Yes, I did, because I had that part of the discovery  
11 before I saw him.

12 Q. What did he tell you about it?

13 A. Well, he told me that part of it is true; namely, that he  
14 did write a letter to his brother to try to help his attorney  
15 and decided not to send it because he didn't want to involve  
16 his brother. That part is true. The rest he said, it's  
17 absolutely not true.

18 Q. And did you find that credible?

19 A. Well, I have no way of telling one way or another. He may  
20 have been trolling or it may not have been true; but by the  
21 time I saw him, which is a year and a half later -- I mean,  
22 this happened in, I guess, February-March, you know, where the  
23 report -- I saw the report coming out in 2017. I saw him in  
24 June 2018.

25 By that time he had matured. So I don't know exactly what

1 he was like when he was arrested and when he was in prison. I  
2 assume he wasn't transformed immediately into a mature human  
3 being; but I think, I don't know, a year and a half in solitary  
4 confinement and reading a lot and especially having some  
5 structure in his life. I mean, prison gave structure in his  
6 life where he actually wasn't wasting doing nothing at home and  
7 just on the Internet. You know, ironically prison benefited  
8 this guy.

9 And when I saw him a year and a half later, he seemed to  
10 be much more mature. I don't think that he would have done  
11 that when I saw him, but I can't really speak to a year and a  
12 half prior.

13 **Q.** Do those allegations change your conclusions about his  
14 dangerousness at all?

15 **A.** No, because he was just trolling the guy if it's true.  
16 There is no indication -- I kind of looked at some of the  
17 allegations that he had outside help, people are going to send  
18 him weapons and bombs. No, none of that was true. So that was  
19 typical Alhaggagi troll. So, no, I didn't think that he was  
20 dangerous because of that.

21 **Q.** And can you just explain why this issue was not addressed  
22 in the report that you wrote for the Court?

23 **A.** You told me you didn't want it. So it was in the draft  
24 and since it was no longer an issue in October 29th when I  
25 wrote this report, I decided, okay, you were right and I didn't

1 think it was relevant and it really didn't affect one way or  
2 another my opinion. It was really a minor thing, and so I took  
3 it out of my report, my final report, at the request of the  
4 attorney.

5 **Q.** I just want to ask you questions about the whole scope of  
6 his activity and the Government's response to it at the time.

7 Having seen the chats with the UCE -- I'm sorry -- with  
8 the CHS, in your view did the Government, the FBI, respond  
9 appropriately? Would you have followed up on those chats as  
10 they did?

11 **A.** Well, the chats would have alarmed me just as it alarmed  
12 the government. I mean, when you have a guy saying "I'm going  
13 to do this to someone," you can't take that lightly. I mean,  
14 you have to really respond to it.

15 He's a loner and so it's hard to infiltrate. If you have  
16 a group doing that type of thing, you know, it's much easier to  
17 do because you infiltrate somebody there and they passively  
18 report what's being said and what's being planned, what's being  
19 done; but when you have a single individual, it's much harder  
20 to do.

21 So I would have really kind of, as they did, put very  
22 intensive surveillance to see if they were -- if any of the  
23 things that he claimed that he was doing were true or not. So  
24 intense surveillance would have been my preference.

25 Now, I must say -- I must confess that personally I don't

1 like sting operations. They're completely outlawed in any  
2 other Western countries except the United States. And, you  
3 know, when I talk to my European colleagues, they always tease  
4 me about it. They say, "You guys don't really have, you know,  
5 that much terrorism compared to us. What you have is sting  
6 operation. You cannot basically arrest the low-hanging fruit.  
7 The dumb people get entrapped."

8 And so I agree with Justice Brandeis in 1920 also wanting  
9 to outlaw sting operation because to him it was a conduct of  
10 the individual -- the conduct of the police as state agent as  
11 opposed to this mythical predisposition that the defendant has.

12 In academia this notion of predisposition is a nonstarter,  
13 Your Honor. So I don't personally like sting operations. I  
14 think that if you wanted to monitor him better, you can  
15 introduce a best friend but it has to be passive. It cannot be  
16 directive. And the UCE was very directive and he was very  
17 forceful with this guy. He said, "You can't do that. You  
18 can't do that. You can't do that. If you are with me, you  
19 can't talk to anybody else."

20 You see, this is not a person gathering information. This  
21 is a person who is very active in trying to encourage a  
22 criminal act.

23 **Q.** Have you been involved in other cases where there was a  
24 UCE operation similar to this one?

25 **A.** Yes, I have.

1 Q. And --

2 THE COURT: I think in a way -- I mean, I think you  
3 can point these things out, but I'm not going to sit here in  
4 judgment on the propriety of the Government operating a sting  
5 operation with respect to terrorism.

6 MR. GUGELMANN: And that's it -- excuse me.

7 THE COURT: I mean, it just seems to me that that's  
8 not what I need to address.

9 MR. GUGELMANN: I agree.

10 THE COURT: So when it gets into, well, don't you  
11 realize that sting operations, you know, frequently work their  
12 way up the ladder; they try to get, in the drug context, the  
13 supplier; and, by the way, isn't a guarantee on the fairness of  
14 the sting operation to make sure that the interactions are  
15 recorded so that we don't have the word of the agent testifying  
16 or the informant, we actually have the actual words that were  
17 used in connection with it. And, you know, we can spend days  
18 on how to run an appropriate sting operation. What are the  
19 safeguards? What are the downsides?

20 I understand that, but --

21 MR. GUGELMANN: And my question is actually slightly  
22 different from that, quite different.

23 THE COURT: Okay. Go ahead. I just want to tell you  
24 I'm not going to spend a lot of time on it.

25 MR. GUGELMANN: Understood and I'm not either,

1 Your Honor.

2 Q. My question is just, in comparison to the prior cases that  
3 you've been involved in that involved a UCE acting in a similar  
4 manner, how does Mr. Alhaggagi's compare to those?

5 A. It really stands out.

6 Q. And why does it stand out?

7 A. Because he's the only one that did not take the bait.

8 Q. Of how many cases would you estimate that you are familiar  
9 with in which someone did take the bait, as you put it?

10 A. Familiar with about 50. I was personally involved in  
11 about 10. I got information -- I mean, transcripts and so on  
12 about 10 others. So about 20.

13 But I must say that this is a selection process. I'm on  
14 the -- I only see the one that people took the bait because  
15 otherwise -- and those go to court. The one that -- the person  
16 who did not take the bait, they don't show up because nobody  
17 gets prosecuted. This is the first one that the guy did not  
18 take the bait and he's prosecuted. I've never seen it before.

19 Q. And why, in your opinion, did he not take the bait, to use  
20 your term?

21 A. Because he's not a jihadi.

22 MR. GUGELMANN: I have no further questions of this  
23 witness.

24 THE COURT: Okay. Thank you.

25 ///



CROSS-EXAMINATION

**BY MR. HASIB:**

**Q.** Good afternoon, Dr. Sageman.

**A.** Good afternoon, sir.

**Q.** We meet again. This is not the first time we've met;  
isn't that right?

**A.** No, it's not.

**Q.** And, in fact, I cross-examined you a few months back in  
the case United States versus Adam Shaffy; isn't that right?

**A.** That's correct, yes.

**Q.** And we spoke in that trial in the courtroom and then we  
spoke outside in the hallway a couple of times during that  
trial; but other than that, you and I have never really talked  
to each other? Is that right?

**A.** No, we haven't.

**MR. HASIB:** Your Honor I think indicated this morning  
that the Government could go into the post-arrest allegations  
in any way that it saw fit; is that correct?

**THE COURT:** I'm sorry?

**MR. HASIB:** With respect to the post-arrest  
allegations, the informants' information, Your Honor suggested  
that the Government could go into it?

**THE COURT:** If they're relying on it, yes.

**MR. HASIB:** We are going to rely on it. We are going  
to go into it, Your Honor.

1 Q. Dr. Sageman, you were asked a few moments ago about some  
2 allegations that came out of the jailhouse where Mr. Alhaggagi  
3 was being housed. Do you remember those questions?

4 A. Yes. There were two different informants.

5 Q. And you explained that that information was initially in  
6 your report and then you took it out at the request of counsel?

7 A. That's correct.

8 Q. And I think you said a moment ago that you didn't think it  
9 was relevant; is that right?

10 A. I think counsel was telling me it was no longer an issue,  
11 and I didn't see it weighing heavily on my opinion and,  
12 therefore, I saw no harm in taking it out.

13 Q. And your opinion was that the defendant's prison record  
14 shows no indication of any violence; is that right?

15 A. That's correct.

16 Q. So you did not think it was relevant to that assessment to  
17 include information from the jailhouse that the defendant had  
18 been overheard talking about blowing up this building,  
19 450 Golden Gate?

20 A. That's correct. There's no violence. He just -- if it's  
21 true -- and, again, I don't know if it's true, because  
22 Informant Number 1 is of very questionable reliability  
23 according to his probation officer. It was just a troll. It's  
24 just words. Just like Mr. Alhaggagi did for everybody else, it  
25 was words and nothing in terms of actual violence.

1 Q. But that's not what you said a few hours ago. You said  
2 you try to collect all the information that's available to you  
3 and then make your assessment; isn't that right?

4 A. And I did in this case as well.

5 Q. And you decided it was not relevant to your conclusion  
6 that the defendant had shown no indication of any violence in  
7 prison?

8 A. No. You're misquoting me. I said the attorney said it  
9 was not relevant.

10 Q. You took it out of your report. It's not in there?

11 A. And I did not think that it weighed in my opinion enough  
12 to really make a difference, and so I accepted -- I agreed to  
13 take it out.

14 Q. So you did not include the facts or the information that  
15 an informant had reported that Mr. Alhaggagi was in jail  
16 talking about blowing up this building?

17 A. I did in my draft. I did not in my final report.

18 Q. It's not in your final report?

19 A. I did in my draft.

20 Q. How about the information that Mr. Alhaggagi was observed  
21 drawing a schematic of this building with particular security  
22 measures and the end of the schematic ended with an explosion  
23 appearing to be of this building? You didn't think that was  
24 important to include?

25 A. I confronted Mr. Alhaggagi, and he laughed. He said he

1 doesn't know how to draw so that particularly to him was not  
2 credible.

3 Q. The fact that he doesn't know how to draw was reason  
4 enough for you not to put that information in your report?

5 A. I did write it in my draft. I just said I removed  
6 everything that had to do with the informant because I was told  
7 the informant was not going to be part of the case.

8 Q. Okay. And the fact that there was information from the  
9 jailhouse that Mr. Alhaggagi was talking to other inmates about  
10 how to make explosives, that was not important to you?

11 A. Again, I don't really know whether it was true or not, and  
12 it's really hard to make explosives in jail. I thought that  
13 was a little bit beyond the pale.

14 Q. Not that he was making explosives in jail, Dr. Sageman.  
15 The information was that he was teaching others how to make  
16 explosives from jail. You didn't think that was important  
17 enough to include in your report?

18 A. I don't know if actually he did or not. I mean, this was  
19 a troll if he did, but Mr, Alhaggagi does not know how to build  
20 bombs. I know how to build bombs. He does not know how to  
21 build bombs.

22 Q. He does not know how to build bombs? Let me put before  
23 you what's been marked as -- this is a sealed exhibit so I'm  
24 not going to put it in front of the public, but what's been  
25 marked as Government Exhibit 3 to the Government's sentencing

1 memorandum.

2           **THE COURT:** Can you describe it without getting into  
3 the contents so that people can follow what it is?

4           **MR. HASIB:** It is a translation of a document with  
5 photographs. The first page is labeled "Bombs Deadliest," and  
6 it then appears to have various photographs of how to construct  
7 a bomb.

8           **THE COURT:** Okay.

9 **BY MR. HASIB:**

10 **Q.** Dr. Sageman, would you review that?

11 **A.** I've reviewed it.

12 **Q.** You have reviewed it?

13 **A.** Oh, yeah.

14 **Q.** So it's your assessment that someone who has that manual  
15 would not know how to make a bomb?

16 **A.** He would probably blow himself up.

17 **Q.** He'd probably blow himself up?

18 **A.** Yes.

19 **Q.** You know how to do it safely?

20 **A.** Well, not anymore. 20 years ago, 30 years ago, perhaps.  
21 But I found this manual very confusing and especially the one  
22 on connecting the cell phone to the bomb. This is a shape  
23 charge, which is a fairly complicated way of making a bomb.  
24 They call it a directional bomb, but it's kind of a shape  
25 charge. It's a little bit like a Claymore.

1 But I found it very confusing. If Mr. Alhaggagi read it,  
2 I don't think he would have known how to make a bomb. And --

3 Q. So this was --

4 A. -- it was very clear he did not know how to make a bomb in  
5 his kind of fun interaction with VIP where they went back and  
6 forth.

7 Q. So it's your understanding that this is not enough to make  
8 a bomb?

9 A. That's correct.

10 Q. So if someone had this, they would be looking for more  
11 information about how to make a bomb; right?

12 A. I think they would if they wanted to make a bomb or  
13 understand how to make one.

14 Q. Like, for example, if they were to meet someone posing as  
15 an Al-Qaeda bomb maker, that might be the kind of person who  
16 might be able to help them build a bomb better than the one in  
17 this manual; isn't that right?

18 A. Probably.

19 Q. Let's go back to the jailhouse. You did not include in  
20 your report information from the jailhouse that Alhaggagi was  
21 talking with other inmates about buying and selling guns, did  
22 you?

23 A. I did in my draft. That was taken out again. It was  
24 about two and a half pages and a few paragraphs in my  
25 conclusion, if I recall. I think about -- my original draft

1 was close to about 50 pages. As you see here, it's 45. So I  
2 did dwell into it extensively.

3 Q. So you did not include in your report either --

4 A. Final report you mean.

5 Q. -- final report information that Alhaggagi and other  
6 inmates were watching a memorial service for a fallen police  
7 officer during which Mr. Alhaggagi commented to other inmates  
8 that sniper teams should be turned loose on police officers and  
9 judges? You didn't include that in your report either?

10 A. In the final report, no, but I probably did in my draft.

11 Q. But in the final report, your conclusion was his prison  
12 record shows no indication of any violence?

13 A. And, again, he showed no violence in prison. He had a lot  
14 of talk about violence but he showed no violence in prison, no  
15 actual violence.

16 Q. Now --

17 **THE COURT:** So let me make sure at least I think I do  
18 understand the distinctions that are being drawn.

19 When the information that the Government has just said was  
20 first presented to you, you took that information and  
21 incorporated it in your draft report?

22 **THE WITNESS:** That's correct.

23 **THE COURT:** Okay. And you, I assume, came to the  
24 conclusion, correct me if I'm wrong, in your draft report  
25 similar to the conclusion you have come to today in your final

1 report, which is that there is no evidence of violence --

2 **THE WITNESS:** That's correct.

3 **THE COURT:** -- in the post-arrest --

4 **THE WITNESS:** That's correct.

5 **THE COURT:** -- period?

6 Okay.

7 **THE WITNESS:** He didn't get into a fight. He  
8 didn't -- there was no violence on his part.

9 **THE COURT:** Okay. So I have to plumb that a bit  
10 because I understand you took that information out at the  
11 request of the lawyer.

12 **THE WITNESS:** Yes.

13 **THE COURT:** And I assume you were told at that time  
14 that the information may not be reliable, but whether you were  
15 or not --

16 **THE WITNESS:** Actually, so a remark by the probation  
17 officer saying this guy's really not reliable so I took it from  
18 what the Prosecution probably gave to the Defense team, and it  
19 was in evidence in the discovery material.

20 **THE COURT:** But putting that aside for the moment and  
21 assuming that that information was reliable; that is, that the  
22 informants, two of them, said certain things and those things  
23 actually did happen. Okay?

24 **THE WITNESS:** Right.

25 **THE COURT:** So we'll just assume that.



1           **THE WITNESS:** Uh-huh.

2           **THE COURT:** Your conclusion would remain the same?

3           **THE WITNESS:** That's right.

4           **THE COURT:** And the way you define "violence" is did  
5 the person do something --

6           **THE WITNESS:** That's right.

7           **THE COURT:** -- in jail which would be considered to be  
8 violent?

9           **THE WITNESS:** Yes, Your Honor, that's exactly right.

10          **THE COURT:** And then -- but I'm trying to figure out  
11 in my own mind why it wouldn't be violent for somebody in jail  
12 to say, "I think we ought to shoot police officers and here is  
13 how we do it," or, "I think we should bomb the Federal  
14 Building" -- this wonderful structure -- "I think we should  
15 bomb the Federal Building. Here is how it should be done."

16          Is it that you wouldn't conclude those are violent acts  
17 because you don't think he would go through with it or because  
18 the nature of what was said is not violent?

19          **THE WITNESS:** No, it would be because of him as a  
20 person totality because he did exactly that online, he did that  
21 with the UCE. If he's doing that in jail, it's consistent with  
22 what he is but that doesn't really mean that he's a violent  
23 guy. He's just a troller. And I'm not really sure whether he  
24 was totally mature enough right at the time of his arrest, that  
25 he continues trolling people; but certainly when I saw him a

1 year and a half later, he just wasn't like that anymore.

2 **THE COURT:** Okay. Well, you say he's changed?

3 **THE WITNESS:** Yes.

4 **THE COURT:** Okay. But I'm going back to before you --

5 **THE WITNESS:** I don't know. Your Honor, I'm not  
6 trying to be argumentative. I just don't know.

7 **THE COURT:** You're not at all.

8 **THE WITNESS:** I don't know.

9 **THE COURT:** You're not at all argumentative. I'm not  
10 suggesting you are.

11 **THE WITNESS:** Okay.

12 **THE COURT:** I mean, one of the things that have been  
13 going on in my mind is that clearly it would be a crime for  
14 these -- going from day one throughout this, if the  
15 conversations he was having with individuals were not agents of  
16 the federal government. I mean, a conspiracy is an agreement  
17 between two people to commit a violent crime and proof of the  
18 conspiracy is an overt act; that is, one act taken in  
19 furtherance.

20 So there would be things like driving somebody around and  
21 saying, "I'm going to plant a bomb there. Let's plant a bomb  
22 here. Let's do that"; or, "Let's see this"; or, "Let's get a  
23 storage house for nitroglycerin," or whatever it is, nitrate  
24 ammonia. I don't know those things. Those would be crimes.  
25 Those would be crimes. They would not necessarily be terrorist

1 crimes. They would be general crimes. Conspiracy to commit a  
2 crime is a crime.

3 And, of course, much of the -- you have said that much of  
4 the conversations that the defendant had were with people at  
5 the time he didn't know --

6 **THE WITNESS:** Yes.

7 **THE COURT:** -- were Government agents. So from his  
8 point of view, his state of mind, he thought he was talking to  
9 somebody who was either going to aid him in it or participate  
10 in some manner, and I'm trying to figure out why that would not  
11 be a sign of at least dangerousness in terms of what the law is  
12 relating to conspiracies. Because what the law relating to  
13 conspiracies is the agreement itself is a crime if it's proven  
14 with an overt act.

15 But you have -- the line you draw -- and I appreciate it,  
16 I understand it, but I'm looking at it from a legal point of  
17 view, you're not looking at it from a legal point of view -- is  
18 that unless he had some evidence of following through on these  
19 things, you don't consider him to be dangerous from that point  
20 of view.

21 **THE WITNESS:** Yes.

22 **THE COURT:** And that's up until his recent maturity.  
23 When I say "recent," I'm not being sarcastic.

24 **THE WITNESS:** Yes, Your Honor.

25 **THE COURT:** I mean up until today when he seems to

1 have realized a number of things that a mature person would.

2 **THE WITNESS:** With a slight clarification to that, and  
3 the clarification is that he's never done anything in life that  
4 really kind of furthered any of -- he's a fabulist if you want  
5 to think of it. He spins a tale. He wants to show that he's a  
6 mean guy, but he does not do -- he's really a coward so he  
7 doesn't really do anything.

8 To me, it's possible that he said that in prison. I don't  
9 know. But it's very consistent with his character. Would he  
10 have wanted to commit a crime? I don't think so. This is just  
11 talk as far as I'm concerned given his background and what else  
12 he did, and I have a huge amount of facts online and so on.  
13 This is very much consistent with him.

14 Now, what the law is, Your Honor, you can teach me. I  
15 don't know. I'm just trying to understand him as a human  
16 being. That's what I'm here for.

17 **THE COURT:** I appreciate that.

18 **BY MR. HASIB:**

19 **Q.** Dr. Sageman, you did not include in your final report that  
20 there was a second informant in the jailhouse who had also  
21 advised that Alhaggagi was talking about explosives in jail;  
22 isn't that right?

23 **A.** In the final report it's not there. In the original, in  
24 the draft, it was there.

25 **Q.** And you also did not include in your final, but perhaps

1 you included it in the draft, that Alhaggagi was talking with  
2 other inmates about how to buy and sell guns, silencers, and  
3 homemade grenades using Tor Browsers, the Dark Web, and  
4 bitcoin. You didn't include that either; right?

5 **A.** I might have in the draft, yes.

6 **Q.** In the draft? But you took it out of the final?

7 **A.** Yeah. I basically summarized the discovery material that  
8 you provided, and so I put all the worse things in it.

9 **Q.** You put all the worse things in it?

10 **A.** Yes.

11 **Q.** Okay. Let's --

12 **MR. HASIB:** This is Exhibit C, Your Honor, to the  
13 Defendant's sentencing memorandum. It's Dr. Sageman's final  
14 report to the Court. May I give him a copy of this?

15 **THE COURT:** Sure.

16 **THE WITNESS:** I have it here.

17 **MR. HASIB:** You've got it? Okay.

18 **THE COURT:** All right. Is it going to be introduced?

19 **MR. HASIB:** It's in evidence. It's before the Court  
20 as a sentencing memorandum exhibit.

21 **THE COURT:** But it's not -- I mean, okay. We just  
22 leave it at that. I assume if somebody wants it, they'll  
23 introduce it. If they want it in evidence -- you say it's in  
24 evidence. I'm just trying to figure --

25 **MR. HASIB:** It's before the Court as an exhibit.

1           **THE COURT:** Yeah. Has the exhibit been publicly  
2 released or not?

3           **MR. HASIB:** No. This one was filed under seal.

4           **MR. GUGELMANN:** It was filed under seal.

5           **MS. McNAMARA:** Under seal.

6           **MR. HASIB:** There is one particular portion of it that  
7 I intend to ask Dr. Sageman about. It's a description of one  
8 of the undercover meetings.

9           **THE COURT:** Well, I think you should read that aloud  
10 so that we can follow the discussion.

11 **BY MR. HASIB:**

12 **Q.** Dr. Sageman, your report, it's, let's see, 47 pages; is  
13 that right?

14 **A.** I have 45 pages.

15 (Counsel conferring.)

16 **BY MR. HASIB:**

17 **Q.** We think there may be a translation problem between  
18 Microsoft Word and Adobe.

19 **A.** You mean a transcription problem.

20 **Q.** A transcription problem.

21 So why don't I give you this copy so we're talking about  
22 the same page numbers.

23 **A.** Okay.

24 **Q.** Now, in this 47-page report, you described a lot of  
25 things. You described your interviews with the defendant, for

1 example; right?

2 A. Yes, I did.

3 Q. And you described the nature of the Government's case;  
4 right?

5 A. What do you mean?

6 Q. Your review of the discovery materials in this case.

7 A. Yes.

8 Q. And you began, in fact, by noting that you had reviewed  
9 all the discovery materials in the case?

10 A. I tried to, yes.

11 Q. And you went into some detail about particular  
12 interactions that Mr. Alhaggagi had with, for example, the FBI  
13 confidential human source; right?

14 A. Yes.

15 Q. And you went into some detail with some of the  
16 interactions that Mr. Alhaggagi had with the undercover agent;  
17 right?

18 A. Yes.

19 Q. Now, let me direct your attention to page 27 of the  
20 exhibit before you, and that is a description of events that  
21 occurred on August 6th; is that right?

22 A. Yes.

23 Q. Beginning on sort of the middle half of the page?

24 A. Uh-huh. Sorry. Yes.

25 Q. It begins with a description of interactions that

1 Mr. Alhaggagi had with the confidential human source, right,  
2 online?

3 A. You mean the third paragraph?

4 Q. Yes, the third paragraph.

5 A. Yes.

6 Q. Okay. And then after that you describe that the defendant  
7 then met with an undercover agent; isn't that right?

8 A. Yes.

9 Q. And if I could, if I could just caution you not to use the  
10 name that's written here for the undercover agent, but we'll  
11 just refer to him in the generic as the undercover.

12 You describe for, let's see, about half of that page and  
13 then onto the next page the details of what happened on  
14 August 6th, 2016, with the undercover agent; right?

15 A. Yeah. I summarized, I think, a two-hour meeting in an  
16 hour plus -- I mean, in a page plus.

17 Q. And a moment ago you said you included all the bad stuff  
18 about the defendant; right?

19 A. Yeah. Most of the bad stuff that I felt significant, yes.

20 Q. Okay.

21 (Pause in proceedings.)

22 BY MR. HASIB:

23 Q. You have reviewed transcripts that were prepared of these  
24 undercover meetings; isn't that right?

25 A. Yes, I did. Sometimes I listened to the conversation.



1 Q. You listened to the recordings and then you reviewed the  
2 transcripts?

3 A. I mostly reviewed the transcript, but some things, for  
4 instance, that discussion about Zawahiri, I heard that.

5 Q. Okay. And if you could just take a look at this. And do  
6 you recognize that?

7 A. (Witness examines document.) That looks like the  
8 August 6th -- the transcript of the August 6th meeting, yes.

9 Q. Okay. That's among the materials that you reviewed as  
10 part of this case?

11 A. Yes.

12 MR. HASIB: Your Honor, I'd like to offer this exhibit  
13 marked Bates U.S. 007826 through 007867 into evidence as I  
14 guess it will be Government's Exhibit 1 for the sentencing  
15 hearing.

16 MR. GUGELMANN: No objection, Your Honor.

17 THE COURT: Admitted.

18 (Government's Exhibit 1 marked for identification)

19 MR. HASIB: And, Ms. Scott, may I have the Elmo?

20 Q. Dr. Sageman, you wrote in your report a summary of this  
21 meeting; right?

22 A. Yes.

23 Q. And since Your Honor asked, I'll read into evidence the  
24 portion of your report that describes this meeting.

25 You wrote (reading):

1 "That same day around 5:48 p.m., Mr. Alhaggagi met  
2 again with the undercover agent who said he got a storage  
3 unit in a city in the East Bay. Mr. Alhaggagi showed him  
4 the blue handgun. He said that he was taking a required  
5 class for firearms and was going to a shooting range the  
6 next day.

7 "The undercover agent said his Sheikh told him to do  
8 his operation in the U.S. and then come to Hajj. He had  
9 no plans to ever come back. He would see his aging  
10 parents there and then go to Afghanistan."

11 You're describing what the undercover agent is telling  
12 Mr. Alhaggagi; right?

13 **A.** Yes.

14 **Q.** (reading)

15 "They eventually returned to the topic of backpack  
16 bombs. Mr. Alhaggagi said that he had told the online  
17 source that he wanted to target nightclubs. He wanted to  
18 sneak a backpack bomb in one through an acquaintance that  
19 supplied cocaine to clubs in San Francisco. The bouncers  
20 did not search him or his friends. The plan would be to  
21 use him and go in with him with a backpack and leave it  
22 behind."

23 And then he wrote (reading):

24 "A bomb could kill 50 to 60 people there."

25 And then you wrote (reading):

1 "The undercover agent suggested using a car bomb to  
2 bring down a building."

3 Is that right?

4 **A.** Yes.

5 **Q.** Okay. Let's listen to this recording of --

6 **MR. HASIB:** Well, I guess I should offer this into  
7 evidence as well, Your Honor. The Government would offer the  
8 recording of the August 6th meeting between the undercover  
9 agent and Alhaggagi into evidence.

10 **MR. GUGELMANN:** No objection.

11 **THE COURT:** Admitted.

12 (Government's Exhibit 2 received in evidence)

13 **MR. HASIB:** Special Agent Peacock, if you could play  
14 the first -- let's make sure the screens are working.

15 **THE COURT:** Well, are we going to follow it on the --

16 **MR. HASIB:** We are going to follow it along.

17 **THE COURT:** So let's get the transcript up and then  
18 start.

19 **THE CLERK:** I don't know if you can do both at the  
20 same time.

21 **THE COURT:** Maybe we can't.

22 (Pause in proceedings.)

23 **MR. HASIB:** Only one at a time?

24 Your Honor, since we haven't had a break in a while, this  
25 might be a good time for a break, and I'll run down and get our

1 audio equipment.

2 **THE COURT:** Yeah. That will be great.

3 Okay. We will resume at 2:30 -- 2:35.

4 **MR. HASIB:** 2:35, okay.

5 (Recess taken at 2:16 p.m.)

6 (Proceedings resumed at 2:39 p.m.)

7 **THE COURT:** Okay. Let the record reflect, the  
8 defendant is present, the parties are present.

9 You may proceed.

10 **MR. HASIB:** Thank you, Your Honor.

11 When we left, Dr. Sageman, I was about to play you a  
12 recording from what I think we've called Government Exhibit 2  
13 for this hearing, with a transcript from what we're calling  
14 Government Exhibit 1 for this sentencing hearing.

15 Your Honor, for Your Honor's information, this is about a  
16 five-minute clip, from 26 minutes to 31 minutes in this  
17 recording.

18 Special Agent Peacock, go ahead.

19 (Audio was played but not reported.)

20 **BY MR. HASIB:**

21 **Q.** Dr. Sageman, do you recognize the voices in these  
22 recordings?

23 **A.** Not really actually because I just heard the recording of  
24 the first meeting between them, and I haven't heard them for  
25 weeks on end. And so I take it that they probably are the UC

1 and Mr. Alhaggagi.

2 Q. So UC -- having reviewed these transcripts previously, did  
3 you understand "UC" to stand for undercover agent?

4 A. Yes.

5 Q. And "AA" to stand for Amer Alhaggagi?

6 A. Yes.

7 Q. And you've interviewed Mr. Alhaggagi several times; right?

8 A. Yes.

9 Q. And you've heard his voice?

10 A. Yes.

11 Q. Okay. Who is it who first brings up the idea of an  
12 explosives in a car according to this transcript?

13 A. You'll have to show me the whole transcript.

14 Q. Well, the portion that you just heard, was there  
15 discussion about backpack bombs?

16 A. Yes. But, remember, there was a previous conversation  
17 that took place a week prior.

18 Q. Okay. So you're uncertain who brought up the first idea  
19 of a car?

20 A. Of this one, yeah, I probably am uncertain at this point.

21 Q. Okay. So where it says there the undercover says, "Oh, a  
22 lot bigger"; and Alhaggagi asks, "Oh, like real big"; and the  
23 undercover says, "Yeah, like not in a backpack"; and where  
24 Alhaggagi says, "In a car? In a trunk," you think that may not  
25 have been the first time someone had mentioned a car bomb?

1     **A.**    They may have mentioned a car bomb the previous meeting.

2                 **MR. HASIB:**   Okay.   Go ahead.

3                         (Audio was played but not reported.)

4     **BY MR. HASIB:**

5     **Q.**    Dr. Sageman, there's discussion here about Alhaggagi's  
6    friend possibly getting hurt.   You didn't mention that in your  
7    description of this meeting, did you, in your report?

8     **A.**    It doesn't seem like.   I basically condensed 11,000 pages  
9    of the discovery into 22 pages in my report.

10    **Q.**    So the fact that Mr. Alhaggagi was suggesting harming his  
11   friends, that was not important to you to put in your report?

12    **A.**    I think discussing bombs and killing people, that's  
13   probably far more important.

14                 I mean, I could have made my report 11,000 pages, but I  
15   didn't.

16    **Q.**    Well, you did say that you included all the bad stuff;  
17   right?

18    **A.**    I included whatever I think was significant to give you a  
19   flavor of exactly what they were talking about.

20    **Q.**    Okay.   But in here --

21    **A.**    I think it reflects pretty well --

22    **Q.**    Go ahead.   Go ahead.   Finish.

23    **A.**    It reflects pretty well what was said.

24    **Q.**    In here you did not mention that Alhaggagi talked about  
25   what might happen to his friend if he left a backpack bomb

1 there?

2 **A.** I guess not, no.

3 (Audio was played but not reported.)

4 **BY MR. HASIB:**

5 **Q.** Again, Dr. Sageman, the fact that Alhaggagi said he didn't  
6 mind a friend getting harmed because he wasn't Muslim, that was  
7 not in your report; is it?

8 **A.** No, it's not. As I said, 10-, 11,000 pages to 22 pages,  
9 that didn't make it.

10 **Q.** And it's your conclusion that the defendant does not  
11 have -- let me make sure I use your terminology -- he does not  
12 have a jihadi mind-set or he does not have a radicalized  
13 mind-set? You don't like the word "radicalized"; right?

14 **A.** That's correct.

15 **Q.** So he doesn't have -- what's the word that you would use?

16 **A.** He's not a soldier for ISIS.

17 **Q.** Okay. He's not a soldier for ISIS. He does not have that  
18 mind-set.

19 **A.** He doesn't think he is.

20 **Q.** But you did not include in your report the fact that he  
21 was willing to let a friend die because the friend was not  
22 Muslim?

23 **A.** I think that he mentioned that -- I mentioned that in my  
24 report, that when -- oh, I'm sorry -- that he had a roommate;  
25 and so when the UC asked him, "Well, aren't you afraid that the

1 roommate is going to find out about the backpacks," and he  
2 said, "Oh, I'll kill him because he's not Muslim."

3 So it's about the same. I'm not going to repeat every  
4 single time that he says he's going to kill people because  
5 they're not Muslim. And, besides, I think he already said that  
6 when he's talking about -- to CHS and they're talking about  
7 Mormons and they say "*Kufr* and *Kufr*. I'll kill them."

8 **Q.** So now we're concluding in this context that he was  
9 talking about a backpack bomb and his friends might end up  
10 dying, and he's okay with that because they're not Muslim, that  
11 was not worth putting in?

12 **A.** I said several times in my report that he would kill  
13 people but not Muslims. I don't have to repeat it 10,000  
14 times.

15 (Audio was played but not reported.)

16 **BY MR. HASIB:**

17 **Q.** Dr. Sageman, this discussion that Alhaggagi said, "You  
18 know what, we actually missed something. Today was the first  
19 Friday of August. Yesterday was so crowded. They closed down  
20 some streets in San Francisco and downtown Oakland. Downtown  
21 Oakland was all shut down," you didn't include that in your  
22 description of this meeting, did you?

23 **A.** I didn't specifically, but I did (reading):

24 "On the way back they talked about carrying multiple  
25 simultaneous attacks in crowded places."



1 That's what I meant.

2 Q. You didn't include it here in this portion of the  
3 conversation?

4 A. Yes, I did. You underlined it. It's in my report.

5 Q. We'll get there in a moment.

6 MR. HASIB: Go ahead.

7 (Audio was played but not reported.)

8 BY MR. HASIB:

9 Q. Dr. Sageman, you did describe in your report, you write "A  
10 bomb could kill 50 to 60 people there"; right? In your report,  
11 let's see, it's about five lines up from the bottom of page 27.

12 A. Yes.

13 Q. So you write, "A bomb could kill 50 to 60 people there."  
14 That was your description of that part of the conversation?

15 A. It may have been. I can't summarize the whole  
16 conversation.

17 Q. You did not attribute -- that sentence about a bomb  
18 killing 50 to 60 people, you did not attribute that in your  
19 report to the defendant, did you?

20 A. (Witness examines document.) Yeah. I think the last  
21 person I mention is Alhaggagi. So when I said "he" and it's  
22 really Alhaggagi speaking.

23 Q. Well, that's not what you wrote here. You wrote simply "A  
24 bomb could kill 50 to 60 people there." You didn't say  
25 "Alhaggagi" or "the undercover agent." You simply said "A bomb

1 could kill 50 to 60 people there"; isn't that right?

2 **A.** Yeah. And I think you're taking things out of context;  
3 and if you put things into context and you kind of start  
4 framing it from the beginning, you see very much that three  
5 sentences before it says "Alhaggagi said" and then everything  
6 else he wanted, and so that's Alhaggagi speaking because I did  
7 not put the undercover saying anything in between. So all of  
8 that, according to convention when you write, that means it's  
9 the last person referred to that says the conversation. So,  
10 yes, I did say that Mr. Alhaggagi said that.

11 **Q.** I see.

12 **THE COURT:** I think you can move on because actually I  
13 got it.

14 **MR. HASIB:** Keep going.

15 (Audio was played but not reported.)

16 **BY MR. HASIB:**

17 **Q.** Dr. Sageman, there's a reference here to AT&T Park and the  
18 Japanese Tea Gardens always being crowded. Not in your report;  
19 right?

20 **A.** That's correct.

21 **MR. HASIB:** Let's move to about 31 minutes into this  
22 recording -- I'm sorry -- 32 minutes, 32 minutes 58 seconds.

23 (Audio was played but not reported.)

24 **BY MR. HASIB:**

25 **Q.** Dr. Sageman, in your report you characterize this part of

1 the conversation as simply the undercover suggested using a car  
2 bomb to bring down a building; is that right?

3 **A.** Yes.

4 **Q.** And you did not include in your report that it was the  
5 defendant who was asking how much damage could that cause;  
6 right?

7 **A.** That's correct.

8 (Audio was played but not reported.)

9 **MR. HASIB:** Let's move to the next portion, 35 minutes  
10 into this exhibit, Government's Exhibit 2.

11 (Audio was played but not reported.)

12 **BY MR. HASIB:**

13 **Q.** Dr. Sageman, your report -- your final report to the Court  
14 did not include any reference about a scheme to set up a fake  
15 modeling agency and call over people and then kill them; is  
16 that right?

17 **A.** That's right, yes.

18 **Q.** And the statement at the bottom there, "'Cause I want to  
19 do several types of killing, I want to, like, do the  
20 explosives, kill 'em with guns, probably like slaughter 'em  
21 with knives," that was also not included in your report, was  
22 it?

23 **A.** Well, in a sense I think the whole paragraph -- that whole  
24 paragraph is about killing people different ways, multiple  
25 attacks, different places, different locations, boom, boom,

1 boom. The undercover approved. That would be careless, man.  
2 They laughed.

3 Yes, so the whole idea is here. Did I give specifics?  
4 No, because the report would be 600 pages.

5 Q. I see. So you left out statements of the defendant  
6 wanting to do explosives, kill them with guns, and slaughter  
7 them with knives?

8 A. No, I did not. It's in here.

9 Q. It's in here?

10 A. Yes.

11 Q. Where is the statement in your report that he wanted to do  
12 the explosives, kill them with guns, and probably, like,  
13 slaughter them with knives?

14 A. Well, they talk about bombs. They talk about --

15 Q. Dr. Sageman, if I may, where is that statement that he  
16 wanted to do the explosives, kill them with guns, and then  
17 probably, like, slaughter them with knives? Where is that in  
18 your report?

19 A. Oh, that specific phrase, no, it's not there.

20 Q. Okay.

21 MR. HASIB: Moving to 1 hour and 2 minutes 43 seconds  
22 into this recording. Go ahead, Special Agent Peacock.

23 (Audio was played but not reported.)

24 BY MR. HASIB:

25 Q. Dr. Sageman, turning to your report, it appears that you

1 summarized this entire passage with one sentence. You  
2 summarized in the report that you submitted to the Court  
3 (reading):

4 "On the way back, they talked about carrying out  
5 multiple simultaneous attacks in crowded places."

6 Is that right?

7 A. Yes.

8 Q. That's what you wrote in your report?

9 A. Yes.

10 Q. You did not think it was important to explain that it was  
11 the defendant who was suggesting going out and spreading them  
12 everywhere, spreading the bombs everywhere?

13 A. No. I think the two of them were egging each other on.

14 Q. Oh, they're egging each other on?

15 A. Yes.

16 Q. And when the undercover agent here says, "Yeah, well," and  
17 the defendant replies, "It could be like one night I go out and  
18 I just spread all of them, you know, in the areas we target,"  
19 he talks about having to hit the San Francisco nightclubs at  
20 night, your opinion of this conversation is that it was the  
21 undercover who was egging the defendant on?

22 A. No. I think that the conversation is a two-hour  
23 conversation and they egged each other on, yes.

24 Q. So they were egging each other on?

25 A. Yes. And if you just take one cite, I might be able to

1 look at other instances where it's the undercover that's egging  
2 him on.

3 **Q.** But you've reviewed all the discovery material in this  
4 case; right?

5 **A.** Yes.

6 **Q.** So are you saying that there are other places where the  
7 defendant was egging the defendant on?

8 **THE COURT:** The undercover?

9 **MR. HASIB:** The undercover was egging the defendant  
10 on. Thank you, Your Honor.

11 **THE WITNESS:** Yes.

12 **MR. HASIB:** Go ahead.

13 (Audio was played but not reported.)

14 **BY MR. HASIB:**

15 **Q.** Again, Dr. Sageman, you summarized this discussion in your  
16 report by saying (reading):

17 "They were going to park a car bomb in the heart of  
18 San Francisco and bring down a building."

19 Is that right?

20 **A.** No, it's not.

21 **Q.** That's not?

22 **A.** No.

23 **Q.** What did you write?

24 **A.** Let me read you what I wrote, okay?

25 **Q.** Please.

1     **A.**   All right.   (reading)

2                 "On the way back, they talked about carrying multiple  
3                 simultaneous attacks in crowded places.  15 different  
4                 locations.  Boom, boom, boom.  Undercover approved.  It  
5                 would be careless, man.  They laughed.  Mr. Alhaggagi  
6                 said, 'The whole state would shut down.  Homeland Security  
7                 is going to come.  The FBI, everybody's going to come.'  
8                 The undercover agreed.  'They won't know what hit them  
9                 because it's so different places, not just one.'  
10                Mr. Alhaggagi continued, 'It's going to be the biggest  
11                attack laugh America laugh since Pearl Harbor.'  They were  
12                going to park a car in the heart of San Francisco and  
13                bring a building" -- "and bring down a building."

14    **Q.**   Dr. Sageman, who brings up --

15    **A.**   And I think that reflects what it said.

16    **Q.**   Who brings up the idea of bringing down a building?

17    **A.**   As I said, they were egging each other on.

18    **Q.**   Okay.  So --

19    **A.**   It was in the flow of the conversation.  One was really  
20           very much egging the other person on.

21    **Q.**   So even after reading this transcript, it's your opinion  
22           that these people were egging each other on, it was not the  
23           defendant who was talking about bringing down a building?

24    **A.**   I think they were in the flow of the conversation.  One  
25           guy did not say, "Oh, no.  We can't do that."  They were egging

1 each other on. They were great with each other and "Let's go,  
2 yeah," and so they very much escalated.

3 Q. Dr. Sageman, who asks in this conversation "Could it bring  
4 down a concrete building?"

5 A. (Witness examines document.)

6 Q. Who is it? Is it the undercover agent?

7 A. No. That's Mr. Alhaggagi.

8 Q. And you did not include in your report that it was  
9 Mr. Alhaggagi who asked "Can it bring down a concrete  
10 building?"

11 A. Well, after the undercover said that he needed to do  
12 bigger bombs, then they talked about car bombs and they could  
13 bring down buildings. This is kind of the same question that  
14 he repeats from the previous. So, you see, it's a process of  
15 egging each other on. It's not one testimony recording. It's  
16 very much --

17 THE COURT: I read all this, and I must tell you I  
18 don't have the same impression that you have.

19 Looking at car bombs, looking at the poisoning, looking at  
20 the fires, and looking at the backpack bombs, all four discrete  
21 and very serious criminal activities if pursued, those four  
22 ideas came from the defendant as I read it. It wasn't, like,  
23 the agent put that in the defendant's mind. It was the  
24 defendant who suggests it.

25 I mean, this is almost like a reverse sting. It is almost



1 like the people who are being stinged or stung actually is the  
2 Government because it is the defendant who, unbeknownst to the  
3 Government, according to what you find, didn't have the  
4 intention of carrying things through; but from the Government's  
5 point of view, they saw this as a very dangerous threat and it  
6 emanated from the defendant, not the Government.

7 So, I mean, I think we have to be somewhat precise here  
8 because -- and it may not change your conclusion, it may not  
9 change your conclusion, but I think the facts are, as I read  
10 them, the facts are that these proposed activities or  
11 contemplated activities, notwithstanding the fact that the  
12 defendant would never go through with them, were emanated from  
13 the defendant and not from the Government; and I think that  
14 that is, to me, an important distinction.

15 Now, if you think I'm wrong in my reading of these things,  
16 tell me, because --

17 **THE WITNESS:** All right.

18 **THE COURT:** -- I'm trying to get it right, not wrong.

19 **THE WITNESS:** Yes, Your Honor. I think this is three  
20 quarters right and one quarter wrong.

21 **THE COURT:** Okay.

22 **THE WITNESS:** The Berkeley hill arson is Alhaggagi.  
23 The strychnine is all Alhaggagi. The backpack bomb is all  
24 Alhaggagi. He did not think of car bombs. It's only when the  
25 undercover said, "Oh, I'm thinking something much bigger," and

1 Alhaggagi said, "Cars?", that's where it comes from.

2 **THE COURT:** Okay. Thank you.

3 **THE WITNESS:** That's all.

4 **THE COURT:** All right.

5 **THE WITNESS:** Otherwise we agree.

6 **THE COURT:** Okay. Thank you.

7 **MR. HASIB:** We'll move on, Your Honor.

8 **Q.** Dr. Sageman, when you and I last met in Judge Orrick's  
9 session, I cross-examined you and you were actually quite happy  
10 to see that the Government had bought several of your books;  
11 right?

12 **A.** Yes, very much so.

13 **Q.** And perhaps even happier to know that the Government has  
14 read all of your books?

15 **A.** Yes. Actually, I am, but it should be the FBI as opposed  
16 to the District Attorney.

17 **Q.** Well, if I may, I'll be happy to offer evidence that the  
18 FBI actually has read Dr. Sageman's books.

19 **A.** Yes, I know they did.

20 **Q.** Dr. Sageman, first of all, let me ask you, you've  
21 published, let's see, this -- you're going to have to correct  
22 me if I'm wrong. Is this your most recent one (indicating)?

23 **A.** No. The big one is.

24 **Q.** *Turning to Political Violence?*

25 **A.** Yes.

1 Q. And this is sort of a historical look at terrorism; right?

2 A. Yes.

3 Q. There's nothing in here past, say -- what? -- 1940, 1950?

4 A. 19 -- October -- I mean, September 1920.

5 Q. September 1920 is the last terrorist act discussed in this

6 book?

7 A. Yes.

8 Q. Okay. And then you've got, let's see -- which one came

9 first? *Understanding Terror Networks* or *Misunderstanding*

10 *Terrorism*?

11 A. *Understanding Terror Networks*.

12 Q. *Understanding Terror Networks* followed by *Misunderstanding*

13 *Terrorism*?

14 A. No. Followed by *Leaderless Jihad*. The third one is

15 *Misunderstanding Terrorism* --

16 Q. Okay.

17 A. -- and then *Turning to Political Violence*.

18 Q. *Understanding Terror Networks* and this was written shortly

19 after 9/11?

20 A. This was written in 2003-2004.

21 Q. And then came *Leaderless Jihad*. This was 2008, give or

22 take?

23 A. 2007-2008.

24 Q. And then *Misunderstanding Terrorism*, the most recent?

25 A. 2016.

1 Q. Okay. Let me ask you about *Leaderless Jihad*. This book  
2 was initially the subject of a plagiarism allegation; is that  
3 right?

4 A. Yes, that's correct. Yes.

5 Q. And you and I have gone over this before. We went over it  
6 in Judge Orrick's session, and you very candidly admitted that  
7 there had been perhaps some mistakes in the bibliography  
8 possibly caused by your wife; is that right?

9 A. Yes.

10 Q. And is that still your explanation for how those  
11 allegations may have come about?

12 A. There was no plagiarism. It just was poorly referenced.

13 Q. Poorly referenced?

14 A. There was no plagiarism. The plagiarism idea, I mean,  
15 it's a free country. Anybody can claim anything, but there was  
16 nothing. It was just one allegation. It was dropped.

17 Q. You haven't written any sort of retraction or pulled back  
18 anything that you wrote in this book; right?

19 A. No, not really.

20 Q. It's all still good?

21 A. No, I don't think so. My thoughts have evolved. This was  
22 based on my time in the Secret Service looking at all the  
23 top-secret traffic every day trying to protect the President,  
24 and so I started thinking -- I mean, seeing a new pattern;  
25 namely, that you have homegrown terrorists that were becoming

1 more prominent in 2007 and '8. And, unfortunately, I was right  
2 because 10 years later, that's the majority of the cases that  
3 we have.

4 Q. Let me just stop you for a second. Something you said,  
5 you said you were working for the Secret Service?

6 A. At the time, yes.

7 Q. And what was your job at the Secret Service?

8 A. Protect the President against group violence.

9 Q. You were protecting the President?

10 A. I was trying to create a strategy to protect the President  
11 against group violence; namely, group terrorism as opposed to  
12 single loner shooters, which the Secret Service is excellent at  
13 doing.

14 Q. Okay. If I may, I'd like you to read a section of your  
15 book *Leaderless Jihad*, and I will preface this as saying it's  
16 actually quite prescient I think. I think you --

17 A. I was criticized heavily, as you know, for writing this  
18 book saying it's all nonsense, and the person who criticized me  
19 said "The Myths of Homegrown Terrorism." That was the name of  
20 the article that was criticizing me.

21 Q. But you were really one of the first people to be out  
22 there saying homegrown terrorism is going to happen, it's a  
23 real-live thing and we've got to prepare for it; right?

24 A. Absolutely, yes.

25 Q. And in fact in that book you highlighted the dangers of

1 the Internet in creating homegrown terrorism; right?

2 **A.** Yes.

3 **Q.** And if I could just have you look there, it's page 116, I  
4 guess the top half of the page, you wrote that previously you  
5 had described how a group of guys, a bunch of guys as you call  
6 them, could act as an echo chamber, which would progressively  
7 radicalize them. And you wrote "Now the same process is taking  
8 place online"; right?

9 **A.** Yes.

10 **Q.** And you wrote (reading):

11 "Since physical militant sites, like radical mosques,  
12 are closely monitored by law enforcement authorities,  
13 militants have moved online."

14 **A.** Yes.

15 **Q.** And you wrote (reading):

16 "The new forums have the same influence that these  
17 radical mosques played in the previous generation of  
18 terrorists. It is the forums, not the images of the  
19 passive websites, which are crucial, crucial in the  
20 process of radicalization."

21 You wrote that in 2008; right?

22 **A.** Yes.

23 **Q.** And that, in fact, is remarkably accurate; right?

24 **A.** For about five years. It's no longer accurate, but it was  
25 until about 2013.

1 Q. You don't think the Internet is used by radicals?

2 A. Yes, but not website. It's also social media now and  
3 social media -- I didn't see the social media coming in this  
4 book, and so I was talking about the websites themselves and  
5 the interactive website, but now it's all social media.

6 Q. So it's moved from just websites to social media?

7 A. Yes.

8 Q. That's where the new threat is?

9 A. Yes. And so at first it was Facebook, Twitter. Now  
10 Telegram is really a big one.

11 Q. Telegram is a big place for this radicalization process to  
12 happen?

13 A. Not so much radicalization but communication among people;  
14 and, as I said, I don't like the term "radicalization" even  
15 though I use it, but it's -- it's really the engine behind all  
16 of that group discussion.

17 And so group discussion needs to be face to face. Here I  
18 was describing that it moved online to interactive website.  
19 Now the discussions are taking place in social media. So it's  
20 the same engine but with the technology, the discussion has  
21 moved elsewhere.

22 Q. So the new place is Facebook?

23 A. Yes, very much Facebook, Twitter, and WhatsApp, Telegram.

24 Q. Telegram. Any other encrypted messaging applications?

25 A. I'm sure there's a lot, but I'm a troglodyte and I don't

1 use them.

2 Q. Ah, that actually brings me to another point. But, first,  
3 the chats and the messages and the communications that you've  
4 reviewed in the discovery materials, the vast majority of them  
5 occurred on the application Telegram; isn't that right?

6 A. Some of them, yes.

7 Q. The ones that you've been referring to today, for example,  
8 the chat with YMN and the Shi'a Sunni battles?

9 A. Those are Telegram, yes.

10 Q. Those are all Telegram?

11 A. Yes.

12 Q. Okay. Dr. Sageman, let's shift gears a little bit. You  
13 in your report concluded that one of the things that happened  
14 in July of 2016 was that Alhaggagi started -- he resolved to  
15 find a real job; right?

16 A. Yeah. He started looking for jobs.

17 Q. To sort of leave behind his life of identity theft and all  
18 the other nonsense and finally grow up?

19 A. I didn't say that. I don't think he was leaving his life  
20 of identity theft yet.

21 Q. No.

22 A. Because he still continued, as you know. But, yes, he  
23 realized it was time to move on.

24 Q. July 2016, time to move on, time to find a real job?

25 A. Yes.



1 Q. And, in fact, I think if you turn to, in your report,  
2 page 42, the first full paragraph there you write (reading):

3 "Two weeks after turning 21 in July 2016,  
4 Mr. Alhaggagi resolved to finally look for a real job."  
5 Right?

6 A. Yes.

7 Q. And you cite there four jobs that he applied for. One to  
8 the Oakland Police Department, a security firm, the Post  
9 Office, and a locksmith position; right?

10 A. Yes.

11 Q. Now, you're well aware, are you not, Dr. Sageman, of the  
12 allegations involved in this case that the defendant was  
13 applying for a job at the Oakland Police Department not to get  
14 a job at the Oakland Police Department but to steal weapons;  
15 right?

16 A. Yes. Actually, that's what he said to the confidential  
17 informant, CHS.

18 Q. And then did he also repeat that to the undercover agent?

19 A. I think so, yes.

20 Q. Okay. But you believed him, that he was resolved to find  
21 a real job?

22 A. Yeah, I think so.

23 Q. Okay. And the reference to applying for a job for a  
24 locksmith, that was also a part of your assessment that the  
25 defendant had turned a corner, so to speak, and was trying to

1 get his life straight; right?

2 A. I don't think he turned a corner. He was trying to turn a  
3 corner.

4 Q. Trying to turn a corner?

5 A. I don't think he did yet.

6 Q. And part of that was looking for a real job as potentially  
7 a locksmith?

8 A. Yes.

9 Q. Now, you are aware, Dr. Sageman, that there are identity  
10 theft allegations along with the terrorism allegations in this  
11 case; right?

12 A. Oh, very much so, yes.

13 Q. And you reviewed all the discovery materials in this case;  
14 right?

15 A. I think I did, yeah.

16 Q. Did you review the materials from the two identity theft  
17 victims who stated that in August of 2016, they believed their  
18 identity had been stolen as a result of calling a locksmith in  
19 Oakland?

20 A. I may have just glanced over it and not really kind of  
21 paid attention to it, but...

22 Q. If you like, I'll --

23 A. No, no. I trust you. I trust you.

24 Q. But your assessment in your report was that Mr. Alhaggagi  
25 was trying to find a real job and you mentioned, among other

1 things, Oakland Police Department and locksmith?

2 A. A security firm, the Post Office, and I think he wanted to  
3 be also an officer in the Air Force.

4 Q. Locksmith was one of those jobs; right?

5 A. Yeah. There are five. I only listed four, but there was  
6 a fifth one. I think being an officer in the Air Force.

7 Q. Dr. Sageman, you also write that you were -- you felt that  
8 prison has been good to Mr. Alhaggagi; is that right?

9 A. Yeah, I think so.

10 Q. And, in fact, I think you said that just a few minutes  
11 ago, that prison has actually been a good thing for him; right?

12 A. Yeah, I think so.

13 Q. And one of the things that you wrote was that it has given  
14 him time to reflect on his wasted past life, provided him with  
15 some structure to allow him to flourish intellectually and,  
16 more importantly, matured?

17 A. Yes.

18 Q. And, again, not to go over stuff that we went over this  
19 morning, but you did not include here in your final report  
20 discussions that the informant had with Alhaggagi in which  
21 Mr. Alhaggagi allegedly talked about blowing up this building;  
22 right?

23 A. Yeah. That was at the very beginning, and I said looking  
24 at his prison time for about now 20 months at the time that I  
25 interviewed him, that I thought that it actually had

1 transformed him.

2 The allegation were the first two or three months of his  
3 imprisonment, and I just said I did not interview him then so I  
4 don't know exactly what level of maturity he had, but I thought  
5 that 20 months later I was impressed that he probably was not  
6 the same guy that he was when he was arrested.

7 Q. And that's based on your interviews with him?

8 A. Yeah, my interviews and kind of -- yeah, and confronting  
9 him and seeing how he reacted to confrontation.

10 Q. The interviews where he told you that he did not get a  
11 bomb manual?

12 A. He did not what?

13 Q. You're talking about the interviews in which, among other  
14 things, he told you that he did not get a bomb manual?

15 A. I think he did tell me, and I think I wrote it in my  
16 report. It's in my report.

17 Q. Let me direct you to --

18 A. I think in --

19 Q. -- page 9.

20 A. I think the next paragraph in my report. In the next  
21 paragraph I tell you how he got the bomb and he assumed that  
22 the bomb manual was from ISIS.

23 Q. But it's your testimony that he did not get it from the  
24 people that he had written this note for; right?

25 A. That's correct. So he got it, as I said in the next

1 paragraph, you also notice on the Telegram channel called  
2 Science of Explosives. He accessed it and a PDF document  
3 attachment was downloaded to his computer. It was about 20  
4 page long and he read it, which is exactly the manual that you  
5 just waved at me a few minutes ago.

6 So -- and he said further, to implicate himself, that the  
7 channel owner was someone called Abu something. So  
8 Mr. Alhaggagi believes it was probably a jihadi because the  
9 fashion to call themselves Abu someone. So he thought it was  
10 very much an ISIS site and he got it from ISIS.

11 Q. Dr. Sageman, you spoke this afternoon about how the  
12 defendant cut off contact with the undercover agent in  
13 mid-August of 2016; right?

14 A. Around August 16th with one exception three-hour period  
15 between August 31st and September 1st.

16 Q. And it was your testimony, I believe, that the defendant  
17 essentially just went home and did nothing; right?

18 A. No. At that time he still was active. It's when he  
19 met -- he was surprised by the undercover in September that he  
20 went home and hid.

21 Q. And one of the things you said is that home would be about  
22 the last place you would want to hide; right?

23 A. If you're hiding from the FBI but not from a jihadi.

24 Q. Okay. Because if you're hiding from the FBI, you might  
25 want to not go home; right? You might want to stay away from

1 the places that you're familiar with; right?

2 A. Yes. You want to run away.

3 Q. You might even want to leave the country or leave all the  
4 people you know; right?

5 A. It would be wise, yes.

6 Q. Dr. Sageman, isn't it a fact that on October 7th, 2016,  
7 the defendant traveled to Los Angeles?

8 A. Yes.

9 Q. And are you aware that on October 7th, 2016, or  
10 thereabouts, he visited the Saudi Consulate?

11 A. No, I don't think that I knew that.

12 Q. You did review all the discovery materials in this case?

13 A. Yeah. I think so, yeah.

14 Q. So the fact that he visited the Saudi Consulate shortly  
15 after cutting off contact with the FBI undercover agent, either  
16 you didn't review that or you don't remember it and it wasn't  
17 in your report?

18 A. I don't remember it.

19 Q. Okay.

20 A. But the fact is he always came home and he was home most  
21 of the time.

22 Q. Dr. Sageman, you talked a great deal this afternoon about  
23 the idea of blocking users on Telegram and that really that's  
24 what this was all about, that it was sort of a back and forth  
25 between groups on Telegram trying to get each other blocked;

1 right?

2 **A.** Yes. It seems that a lot of the conversation that I read  
3 that was translated seemed to be about that.

4 **Q.** And you've got one example that you referred to where  
5 Alhaggagi tells his friend YMN, I think, that "I outed the  
6 *dawa'ish* identifiers to the Shiite group, and I outed the  
7 Shiite identifiers to the *dawa'ish* group"; right?

8 **A.** Yes.

9 **Q.** Did you ever find that Telegram chat where Alhaggagi outed  
10 Shiites to *dawa'ish* and *dawa'ish* to Shiite?

11 **A.** I think it's there, but the problem is that the Government  
12 did not translate the 18,000 pages; and so since I don't speak  
13 Arabic, I took it for granted that it was there, especially  
14 since he mentions it and the conversations that were translated  
15 referred to them.

16 But you did not translate everything and you only  
17 translated what was the worst, the most incriminating evidence  
18 for the defendant, and that's all I had to rely on with  
19 whatever conversation he talks. So, for instance, the whole  
20 conversation 90, the 200 pages were translated I think by the  
21 Defense but not by you. And there he talks a lot about  
22 being -- doing exactly that.

23 **Q.** You had those conversations translated by the Defense, not  
24 by us?

25 **A.** Yeah. I think that they were not translated by you. Only

1 10 pages were translated out of 200 and I wanted to see the  
2 whole context, and I got them yesterday.

3 Q. And you're still of the opinion that this was all just a  
4 mistake about someone possibly getting upset about comments  
5 made about women on Telegram?

6 A. It was that. It was also very much, you know, trolling  
7 jihadis, Saudis, and Shi'a.

8 Q. Trolling?

9 A. Trolling, yes.

10 Q. Dr. Sageman, you're not a social media expert, are you?

11 A. A what?

12 Q. You're not a social media expert?

13 A. No, I'm not.

14 Q. I think you just referred to yourself as a troglodyte; is  
15 that right?

16 A. Unfortunately, that's accurate.

17 Q. Are you on Telegram?

18 A. No.

19 Q. WhatsApp?

20 A. No -- yes. I'm on WhatsApp.

21 Q. Viber?

22 A. No. I'm not on Facebook either.

23 Q. Not on Facebook either?

24 A. I'm not on Twitter.

25 Q. Okay. But you do know what it means to troll somebody?



1   **A.**    Oh, yes.  I found out when the Russians did it to us in  
2   the last presidential election.

3   **Q.**    Okay.  So that's based on your experience in the last  
4   election?

5           **THE COURT:**  I have a question.

6           **MR. HASIB:**  Yes, Your Honor.

7           **THE COURT:**  So while you consider yourself a  
8   troglodyte, I would be a super-troglodyte.  So tell me, what  
9   does it mean -- the use of the word "troll," exactly what does  
10  that mean?

11          **THE WITNESS:**  Something that I had to learn.  It means  
12  that you accentuate and you basically tell a whole story and  
13  then you escalate, you escalate, you escalate, until the other  
14  person either stops believing you or you just kind of drop the  
15  escalation and the other person is gone.

16          It's really kind of to show the other person that you're  
17  smarter than they are, and that's done so often.  I discovered  
18  that recently.

19          But this whole thing about egging people on or even trying  
20  to polarize a conversation between two groups of people upset  
21  at each other and they don't do things, a little bit what  
22  happened in the election, where people stopped voting because  
23  they were upset and others were motivated to vote, it's a  
24  little bit the same thing.  So it's basically telling tall  
25  tales in order to get a reaction by the other person, and then

1 you boast about it to your friends to show how smart you are.  
2 It's pretty immature.

3 **BY MR. HASIB:**

4 **Q.** And if I understood your testimony earlier today  
5 correctly, you described the trolling by Mr. Alhaggagi not only  
6 occurring online but, in fact, when he met the undercover  
7 agent?

8 **A.** Yes.

9 **Q.** And, again, if I understand you correctly, this was the  
10 one occasion where the defendant decided to meet someone in  
11 person that he had trolled; is that right?

12 **A.** Well, he didn't decide. It was kind of forced on him.

13 **Q.** It was forced on him?

14 **A.** Yeah.

15 **Q.** How was it forced on him?

16 **A.** Well, I think that the CHS presented him, "Oh, my cousin  
17 is driving. He's on his way right now. Can you meet him in 10  
18 hours?" And he really felt very guilty about being the cause  
19 of it and decided, well, he probably has to meet him.

20 **Q.** So the one time that Alhaggagi meets someone that he  
21 trolled online just happens to be someone representing  
22 themselves to be an Al-Qaeda bomb maker with a cousin in ISIS?

23 **A.** Well, he did not know it was -- what the CHS said is that  
24 his brother was very sympathetic for ISIS, and so that's why he  
25 was surprised when the undercover said he was Al-Qaeda as

1 opposed to ISIS.

2 Q. Isn't it a fact, Dr. Sageman, that in the discovery  
3 materials that you reviewed, the defendant repeatedly said that  
4 he was looking for instructions on how to make bombs?

5 A. On various -- yes, several people -- not so much how to  
6 make bombs but how do you connect a bomb to a cell phone. He  
7 still doesn't understand that. I asked him. He still doesn't  
8 understand.

9 Q. That was the critical piece that he was looking for;  
10 right?

11 A. When he read the manual, on page 21, there's a diagram in  
12 the manual. I found that very confusing, and so I think he  
13 did. And so I think that he asked several people. He asked  
14 the undercover, I believe, in your second session, I don't  
15 think that you played it, "How do you connect a phone online?"  
16 I think the undercover tried to explain to him.

17 And then I think even though he was joking with VIP, he  
18 said, "Oh, by the way, how do you connect a phone online?" And  
19 VIP tried to explain, and I think VIP's explanation was almost  
20 correct, but he did not get it. It was obvious he did not get  
21 from his response. And I'm not going to tell you how, but --

22 Q. We appreciate that.

23 A. -- but he did not get it.

24 Q. So it's still your testimony that the reason the defendant  
25 went to meet the undercover is because he felt bad that the

1 defendant had driven from Salt Lake City?

2 **A.** Yes.

3 **Q.** It had nothing to do with the fact the defendant was  
4 someone who could potentially help him carry out his terrorist  
5 attacks?

6 **A.** I think that they discussed with the CHS whether they  
7 should try to combine and to do things together, and they  
8 decided, yes, let's do things together; but he did not know  
9 exactly what was the level of the sophistication with the  
10 undercover, whether the undercover had any training or anything  
11 like that. The undercover, as far as he was concerned, was  
12 this cool dude who was a cousin of the CHS.

13 **Q.** Dr. Sageman, let's switch gears for a second. You talked  
14 a little bit today and the Court talked a little bit today  
15 about prior criminal history and how that can sometimes  
16 indicate someone's future propensity. Do you recall that  
17 discussion?

18 **A.** I recall before even my testimony and my discussion of it,  
19 yes.

20 **Q.** You're familiar with the San Bernardino terrorist attack a  
21 couple years ago?

22 **A.** Very familiar. I'm also the expert on that one.

23 **Q.** Are you familiar with what the defendants' or the  
24 perpetrators' criminal history was in that case?

25 **A.** I don't think they had any.

1 Q. Are you familiar with the Orlando Pulse Nightclub  
2 shooting?

3 A. A little bit but less.

4 Q. Less so. Are you familiar with whether that defendant had  
5 any criminal history or that --

6 A. I don't know.

7 Q. -- shooter had any criminal history?

8 A. I'm less familiar with that one. I cannot tell you.

9 Q. Dr. Sageman, let me ask you a little bit more about your  
10 interviews with the defendant. You say in your report that you  
11 started your interviews by testing the defendant by telling him  
12 that you'd met someone named Sheikh Abdullah Azzam; right?

13 A. That's correct.

14 Q. And given your background and your experience in the  
15 counterterrorism world, who is Sheikh Abdullah Azzam?

16 A. Sheikh Abdullah Azzam is basically the person who  
17 motivated people to come and join the fight against Soviets in  
18 Afghanistan, and he was the one who argued that it was the  
19 individual -- it was a duty on the individual to join the jihad  
20 and it's not a collective fight.

21 Let me translate that because it's actually very  
22 interesting. Sheikh Abdullah Azzam was saying everybody in any  
23 country can join the fight against the infidel when there is a  
24 jihad as opposed to government declaring war. So an individual  
25 can actually declare war and go and fight a war. That was

1 basically the *fard'ayn*, as they call in Arabic, which is  
2 F-A-R-D apostrophe A-Y-N, *fard'ayn*. It is an individual duty  
3 to go and fight jihad.

4 Q. This is in the 1980s; right?

5 A. In the 1980s because he was killed on November 24th, 1989,  
6 by a car bomb.

7 Q. Let me stop you there for a second. He was killed in  
8 November -- I'm sorry, what year did you say? 1989?

9 A. That's correct.

10 Q. Okay. And the defendant you're aware was born in 1995; is  
11 that right?

12 A. That's correct. But Sheikh Abdullah Azzam is basically  
13 the father of the modern jihad. He's reputed the mentor of  
14 Osama Bin Laden. People revere Sheikh Abdullah Azzam,  
15 especially his books *Join the Caravan*, *Defending Muslim Land*.  
16 Those are very, very popular in any language, whether it's  
17 French, English, Arabic, and this is very much the father of  
18 the modern theory of jihad.

19 Q. He died in 1989; right?

20 A. That's correct.

21 Q. Okay. You never asked the defendant what he thought  
22 about, say, Osama Bin Laden, did you?

23 A. I think he knew about Osama Bin Laden.

24 Q. You think?

25 A. Well, I think he talked about it.

1 Q. Did you put that in your report?

2 A. What?

3 Q. Did you put that in your report?

4 A. I don't think it was relevant. He talked about Osama  
5 Bin Laden with the undercover.

6 Q. So you didn't think to ask the defendant what he thought  
7 about Osama Bin Laden in your interviews with him?

8 A. I don't -- I don't think I did, no.

9 Q. How about, this is a name that's come up a couple of times  
10 today, Ayman al -- we'll pronounce it both ways; right? --  
11 Ayman al-Zawaraki (phonetic) or Ayman al-Zawahiri if you read  
12 it in English. Did you ask the defendant about that guy?

13 A. Zawahiri?

14 Q. Zawahiri.

15 A. I did not.

16 Q. Now, you're aware that the name Ayman al-Zawahiri, or  
17 however you want to pronounce it, came up in this case; right?

18 A. Yes.

19 Q. And, in fact, you're aware --

20 A. That's the English translation, yes. I mean, in the  
21 transcripts.

22 Q. You're aware that the defendant asked the undercover who  
23 that person was; right?

24 A. Yes. In his accent.

25 Q. But in your interviews, you didn't think it would be

1 important to ask the defendant about Ayman al-Zawahiri?

2 **A.** I knew he already knew about it because I had read the  
3 transcript before saw him -- seeing him.

4 **Q.** It wasn't important for you to ask him about that for your  
5 report, was it?

6 **A.** I already knew. There's no point asking a question to an  
7 answer I already know.

8 **Q.** How about Mohammad al-Adnani? Do you know who that person  
9 is?

10 **A.** Yes.

11 **Q.** Who was Mohammad al-Adnani?

12 **A.** He was a spokesman for ISIS before he was killed.

13 **Q.** And he was killed in roughly 2016; is that right?

14 **A.** Yes. In the fall of 2016.

15 **Q.** And you're aware, are you not, that in the chat messages  
16 between the defendant and the confidential source, the  
17 defendant sent a confidential source to a link to a speech by  
18 this ISIS spokesperson Mohammad al-Adnani; right?

19 **A.** Yes. I read that in the discovery material.

20 **Q.** You did not ask the defendant what he thought about  
21 Mohammad al-Adnani, did you?

22 **A.** No. I knew that he knew him.

23 **Q.** So you asked him about Abdullah Azzam but not about any of  
24 the names that actually came up in the discovery materials?

25 **A.** Well, I knew that he knew the other one. I asked him "Do



1 you know who Abdullah Azzam is?" Or "I met Abdullah Azzam."

2 He said, "Who is that?"

3 I said, "Oh, he's the father of the modern jihad." And  
4 that's it so I knew he did not know it. I did not ask the  
5 other one because I already knew that he knew it.

6 Q. But the fact that he did not know Abdullah Azzam to you  
7 was important because you were concluding here that he's not of  
8 a jihadi mind-set; right?

9 A. Every jihadi that I have ever met knew who Abdullah Azzam  
10 was.

11 Q. And did you see the name "Abdullah Azzam" anywhere in the  
12 discovery in this case?

13 A. I don't think so, except for my report.

14 Q. Except for your report.

15 (Pause in proceedings.)

16 BY MR. HASIB:

17 Q. Dr. Sageman, you spoke this morning a lot about emojis and  
18 emoticons; right?

19 A. Yes.

20 Q. And you explained that the emojis and the emoticons were  
21 an important way for you to understand the context of  
22 conversations that you were reading; right?

23 A. That's correct. I think they modify what's written,  
24 either accentuate, sometimes show that what people say  
25 sarcastic, other is just a response. So, yes, they're very

1 important.

2 Q. And, in fact, you pointed out this morning I think several  
3 emojis that looked like sort of a laughing face and crying;  
4 right?

5 A. That's correct.

6 Q. And to you that was an indication that whatever was being  
7 said was not really serious; right?

8 A. I think there's a facetious element to it, yes.

9 Q. Okay.

10 MR. HASIB: Ms. Scott, could we have the Government's  
11 computer now?

12 Okay. I'm placing before you one of the chat messages.

13 We'll mark this as Government Exhibit 3, Your Honor.

14 (Government's Exhibit 3 marked for identification)

15 BY MR. HASIB:

16 Q. And, Dr. Sageman, you've reviewed this chat message;  
17 right?

18 A. Yes, I did.

19 Q. And it starts with -- just so we're clear, it's Alhaggagi  
20 talking on the left and the CHS on the right?

21 A. That's correct, yes.

22 Q. And it starts with Alhaggagi saying (reading):

23 "Main streets, Mission Boulevard, every club and  
24 underground club in the city. I know I'll probably get  
25 near the 500 but my goal is 10,000. Areas here are very

1 crowded. There's a lot of traffic everywhere."

2 Right?

3 **A.** Yes.

4 **Q.** And the FBI online source replies (reading):

5 "That's awesome bro."

6 And then Mr. Alhaggagi replies (reading):

7 "Ah, wallah, I can't wait. Aki, you know what I did  
8 last week? I applied for a job at the Police Department."

9 And then at the bottom of that are those emojis; right?

10 **A.** That's correct.

11 **Q.** It's the same emojis that you were looking at earlier;  
12 right?

13 **A.** Yes, but here it has a different -- it has a certain  
14 meaning. Over there it has a different meaning. I mean, the  
15 emoji just modifies what's said, and what's said depending on  
16 who you're talking to, you put some emojis, you know, to kind  
17 of emphasize it.

18 So here I think the emojis just means that, "Look, I'm  
19 going to fool the Police Department. I actually applied."  
20 And, in fact, he actually did apply the week before to the  
21 Police Department.

22 **Q.** So this was true?

23 **A.** This was true, but I think that the context may have been  
24 not -- I mean, I think he really applied to the Police  
25 Department seriously because he wanted to be a policeman; but

1 he decided, "Ah, yeah, I'm going to tell this guy that I  
2 applied to the Police Department to show how smart I am and how  
3 stupid the police is." And so he put the emojis there to kind  
4 of in a way enhance himself on this.

5 **Q.** But, in fact, this was true, that he had actually applied  
6 to a Police Department; right?

7 **A.** Yes, he did, but not because he wanted to steal their  
8 weapons or anything like that. He wanted to be a policeman.

9 **THE COURT:** That's why he applied. Other than a  
10 secondary purpose, you concluded that when he applied to the  
11 Police Department, he actually wanted to be a police officer?

12 **THE WITNESS:** Yes.

13 **THE COURT:** Okay. Did you also conclude from that  
14 that what he would do as a police officer would be strictly  
15 lawful; that this was a turnaround for him? Did you come to  
16 that conclusion?

17 **THE WITNESS:** No. I don't think it was a turnaround.  
18 I think he was trying to turn his life around so he applied to  
19 different jobs. One of them was a police officer.

20 **THE COURT:** It's meaningful. The fact that somebody  
21 is going to apply to a Police Department is a qualitative  
22 decision to -- in the normal course people don't apply to the  
23 Police Department because they want to violate the law. In the  
24 normal course, people apply to the Police Department to enforce  
25 the law. In the normal case.

1           **THE WITNESS:** Right. And I think that was the case  
2 here.

3           **THE COURT:** You thought that -- so that would  
4 reflect -- in your opinion, that reflected a change that he was  
5 going to abandon his old ways of identity theft and whatever  
6 else he was involved in, that this was -- that would be a major  
7 change, wouldn't it?

8           **THE WITNESS:** Yes, I think so.

9           **THE COURT:** But did you conclude that he had made this  
10 major change by this decision?

11           **THE WITNESS:** I think he was trying to get on that  
12 way. He also applied to security job. I think that he's  
13 fascinated with law-enforcement-type ideas.

14           **THE COURT:** What about he applies to be a locksmith or  
15 he wants to be educated as a locksmith? There could be two  
16 reasons. One is he's intrigued by the way locks work and he  
17 wants to ensure people's safety. A secondary reason could be  
18 he wants to find out how to pick locks. Now, did you conclude  
19 that it was the former and not the latter?

20           **THE WITNESS:** Yes. Well, I asked him about that, and  
21 he said the reason he applied to the locksmith position is that  
22 he had a friend who actually was a locksmith, and he owned -- I  
23 don't know if he owned but he was a manager in that place.  
24 It's a little bit, like, how he got all these jobs, I think, I  
25 suspect, a friend maybe Yemeni or something like that.

1           Because up to that point most of the jobs that he had were  
2 really under the table. He never really paid taxes so he kind  
3 of got everything scot-free. I mean, without taxes, just under  
4 the table.

5           So this, I think, the locksmith was just an easy job for  
6 him to get because the other one he had to apply, he had to get  
7 a security clearance, and so on. So I took that at face value  
8 as opposed to learning how to pick locks and then rob people.

9 **BY MR. HASIB:**

10 **Q.** So I take it, Dr. Sageman, that the defendant did not tell  
11 you that he was using his friend as a locksmith to get false  
12 credit cards?

13 **A.** That's correct, he did not tell me that.

14 **Q.** And -- well, Dr. Sageman, the thrust of your testimony  
15 earlier today seems to be, if I can sum it up, essentially all  
16 talk, no action; is that fair?

17 **A.** That's pretty fair, yes.

18 **Q.** Is it your testimony that downloading a bomb manual is not  
19 action?

20 **A.** I have a few myself. If you carry yourself, of course you  
21 can buy stuff, whether it's an anarchist cookbook or something.  
22 No, I don't think it's an action. If you cannot use a manual  
23 in order to build a bomb and you do some acts in furtherance,  
24 like you start buying supplies and so on, yeah, then I start to  
25 worry; but just having the manual itself, not so much.

1 Q. To be clear, you have bomb manuals because you are someone  
2 experienced in explosives and things of that nature; right?

3 A. I also collect all what jihadi put out, so, yes, I have  
4 most of their bomb manuals.

5 Q. You collect them for research purposes; right?

6 A. And also for accuracy. You know, I want to know what  
7 they -- a lot of potential bombers kill themselves and no one  
8 else. It's actually a very dangerous thing so I'm kind of  
9 looking at, you know, what are they going to do. And then also  
10 looked at videos on the Internet, how to build bombs; and, you  
11 know, if I didn't have any training, I wouldn't do that myself.

12 Q. Dr. Sageman, you looked at these things because you were a  
13 researcher and academic; right?

14 A. Also I have a certain fascination about this but mostly  
15 because I'm an academic, yes.

16 Q. So you would classify downloading a bomb manual as not  
17 necessarily an action in furtherance of a plan, it's still part  
18 of all talk?

19 A. That's right.

20 Q. And meeting with someone representing themselves to be an  
21 actual bomb maker after getting the bomb manual that you  
22 described as being sort of confusing, that is also not action  
23 in your opinion?

24 A. No. That was kind of -- in a sense, he was almost -- how  
25 you say? -- almost forced to meet this guy. It was not his

1 initiative. It was somebody else told him the guy burned his  
2 bridges, just driving to see you. He said, "Okay. I'll meet  
3 him once."

4 Q. He felt bad; right?

5 A. He felt bad.

6 Q. The guy drove from Salt Lake City, he had to meet him;  
7 right? It had nothing to do with the fact that he was somebody  
8 that could conceivably help the defendant carry out his plans?

9 A. Well, I think that -- I don't think he had any plans. I  
10 think he was curious about how far he can go on trolling both  
11 the CHS and now this new guy who was showing up.

12 Q. So meeting with the undercover agent was not, as you would  
13 say, action? It was still all talk?

14 A. Yes.

15 Q. Meeting with him the second time after he explained that  
16 he was skilled in bomb making, still no action; right?

17 A. Yeah. At that point I think that he was hesitating but he  
18 was bored and said, "Why don't I meet him again," yeah.

19 Q. Going to a shooting range to practice shooting, still no  
20 action in your opinion; right?

21 A. I think he had to do that for his job.

22 Q. For the Oakland Police Department job?

23 A. Yeah.

24 Q. Still, not action in your opinion?

25 A. No, it had nothing to do with this jihadi stuff.



1 Q. Applying to the Police Department, still no action on your  
2 part?

3 A. I'm sorry?

4 Q. Applying to the Police Department, not an action on your  
5 part?

6 A. I think he's interested in security and various things  
7 like that, applying. I don't think he would have gotten the  
8 job because it seems that the interviewer at the Police  
9 Department realized that he was lying about three areas, if I  
10 recall.

11 Q. Looking online for igniters and electric matches a couple  
12 of days before Halloween after having suggested he was going to  
13 commit an attack on Halloween, still no action on your part;  
14 right?

15 A. That's correct.

16 Q. All talk?

17 A. Yes.

18 Q. Dr. Sageman, the conclusion that you seem to reach at the  
19 end of your report is that the defendant is, quote, "less  
20 dangerous than a randomly picked individual from the  
21 United States"; is that right?

22 A. Yes, because he has absolutely no background of violence.

23 Q. Because he has no background of violence?

24 A. Yeah, physical violence, beating people up, hurting  
25 people. He's just talking.

1 Q. And --

2 THE COURT: Well, let me ask you this: You don't hold  
3 yourself out -- or maybe you do -- as an expert in what one  
4 would say the general population -- in terms of what percentage  
5 of the general population has criminal records for violence? I  
6 mean, do you know the statistics? Have you seen the  
7 statistics.

8 THE WITNESS: I know the homicide rate 4.7 per hundred  
9 thousand. I'm looking really for just homicide because most  
10 crime is not reported so it's very -- most statistics are not  
11 very good except for homicide so I just look at homicide.

12 THE COURT: As Government counsel is pursuing, I  
13 probably should let him finish, but I was interested in your  
14 testimony as if you take the random person, that random person  
15 in a population of 350 million people is more likely to have a  
16 criminal record for violence than the defendant.

17 THE WITNESS: That's correct.

18 THE COURT: And the question is: What statistical  
19 basis do you reach that conclusion? Upon what is the evidence  
20 that you reach that conclusion?

21 THE WITNESS: Well, I think that the prison population  
22 is almost like 1 percent of the population. Often there is  
23 always some criminal record. Granted, most of it is drugs, but  
24 there's some violence.

25 So he doesn't have anything. He's a complete blank slate

1 in terms of violent criminal offense, and so because he's lower  
2 than the base rate of the population, his probability is  
3 actually lower.

4 **THE COURT:** I understand that. That's a conclusion.  
5 I'm trying to figure out how you come to the conclusion what  
6 the evidence is of the random -- I don't know whether it's  
7 called average or not -- that the random individual selected  
8 out of the population of the United States has a greater  
9 likelihood of having a record for a violent action than this  
10 defendant.

11 After all, this defendant -- you testified this defendant  
12 had a number of incidences as a youth getting into fights and  
13 so forth. So I'm not counting any of that. I'm counting  
14 criminal convictions for violence. And it comes as a surprise  
15 to me that the percentage of Americans -- or not Americans --  
16 people who are subject to the criminal justice system in the  
17 United States would lead one to the conclusion that this  
18 defendant is less likely.

19 **THE WITNESS:** Right. So, Your Honor, you have to look  
20 at base rates, and the base rates of people convicted for  
21 violent crimes is nonzero. It's not zero. We have people who  
22 are convicted.

23 **THE COURT:** Yes.

24 **THE WITNESS:** His is zero and, therefore, his is lower  
25 than the base rate of a randomly selected person because we're

1 talking about probability. We're not saying that --

2 **THE COURT:** Okay. I understand.

3 **THE WITNESS:** So it's a base rate. It's a base-rate  
4 argument.

5 **THE COURT:** Okay. All right. Thank you. That  
6 supplies the evidence -- I mean, that supplies the reasoning.

7 **BY MR. HASIB:**

8 **Q.** Let me go back for a moment, then I want to come back to  
9 this idea about the randomly picked individual.

10 Dr. Sageman, you spoke this morning about the magazine  
11 *Inspire*. Do you remember that?

12 **A.** Yes.

13 **Q.** And you explained that that is a magazine that is widely  
14 viewed by, as you would say, jihadis; right?

15 **A.** English speaking.

16 **Q.** English-speaking jihadis?

17 **A.** Yes.

18 **Q.** And that's because *Inspire* is written in English; right?

19 **A.** That's right.

20 **Q.** And it's pretty slickly presented? It looks like a  
21 magazine?

22 **A.** Yes.

23 **Q.** A very sort of compelling look at the life of Al-Qaeda and  
24 what they do; right?

25 **A.** Yeah. It's a very showy magazine.

1 Q. Okay. And the fact that the defendant, in your  
2 estimation, had not heard of *Inspire*, that was a signal to you  
3 that he had not become a jihadi or had a jihadi mind-set; is  
4 that right?

5 A. No. It signaled to me that he was different from  
6 English-speaking jihadis, all of whom had probably downloaded  
7 or read one copy of *Inspire*.

8 Q. Are you familiar with a magazine called *Dabiq*, D-A-B-I-Q?

9 A. Yes.

10 Q. Just describe for us, what is *Dabiq*?

11 A. It's very similar to *Inspire* but it's for -- it's printed  
12 by ISIS -- I mean, it's published by ISIS.

13 Q. And is it, again, sort of presented in a magazine format?

14 A. Yes. It's very similar. It's copied on *Inspire*.

15 Q. And does it praise ISIS' acts, for example, of martyrdom?

16 A. Yes.

17 Q. Does it praise their use of child soldiers, for example?

18 A. The particular issue you're talking about, Issue 8, has  
19 one article about not so much child soldier but child  
20 executioner.

21 Q. Child executioner?

22 A. Yes.

23 Q. And that's something that's sort of publicized in *Dabiq* as  
24 "Look at what a great job ISIS is doing"; right?

25 A. In that issue, yes.

1 Q. And are you aware that Issue 8 of *Dabiq* was found among  
2 the defendant's electronic devices?

3 A. Yes.

4 Q. And you're still of the opinion that the fact that he did  
5 not view *Inspire* is indicative of his lack of a jihadi  
6 mind-set?

7 A. No. *Inspire* is lack of an English-speaking jihadi  
8 mind-set because, for instance, in France the jihadis in France  
9 were much more numerous than American jihadis, factor of 10 to  
10 a hundred even. They never heard of English-speaking magazine  
11 because they speak French, and so that's why I say English  
12 speaking.

13 Now, *Dabiq* most now the more recent, because they are  
14 published at different dates -- *Inspire* was published, the  
15 first one issue was published in the summer of 2010 it came  
16 out; *Dabiq* came online about four years ago, three years ago.  
17 It's pretty recent. So if you are really jihadi, you probably  
18 have a lot of -- several issues if you're really interested.  
19 Just one issue, this could have been downloaded from any kind  
20 of link in Telegram because that's how it's disseminated. So,  
21 no.

22 Q. So there's an innocent explanation, in your opinion, for  
23 having a copy of *Dabiq*?

24 A. Yes.

25 Q. You didn't include that in your report to the Court, did

1 you? There's no mention of *Dabiq* in here, is there?

2 A. I don't think I mentioned it, no.

3 Q. Was that because having the ISIS magazines was not  
4 important in your assessment as to whether the defendant had  
5 taken the turn towards political violence?

6 A. It wasn't so much that. It was not knowing that even  
7 *Inspire* existed, and that to me was significant as opposed to  
8 having a copy or not. So if you don't even know about *Inspire*,  
9 you don't know much about English-speaking jihad.

10 Q. I see. And did you ask him about *Inspire*?

11 A. Yeah, I think I did, because I was kind of surprised. I  
12 said, "You didn't know?" He knew now because it was put out by  
13 Anwar Awlaki who is a Yemeni; and as soon as he found out that  
14 it was Anwar Awlaki, he said he was going to get it, but I  
15 didn't see that in his discovery material.

16 Q. So the fact that the defendant did not recognize *Inspire*  
17 was important to you to put into your report but the fact that  
18 he actually had a copy of *Dabiq*, that was not important enough  
19 to put into your report?

20 A. Yes.

21 Q. Dr. Sageman, let's go back to the idea of the randomly  
22 picked individual. Is a randomly picked individual from the  
23 United States likely to have a copy of *Dabiq* in their  
24 electronic devices?

25 A. Probably not.

1 Q. Is a randomly picked --

2 A. The base rate is pretty low.

3 Q. Is a randomly picked individual from the United States  
4 likely to have discussed planting a car bomb outside a gay  
5 nightclub with someone they just met?

6 A. Maybe not.

7 Q. Is a randomly picked person from the United States likely  
8 to have taken a complete stranger on a tour of the Berkeley  
9 hills pointing out the areas where they wanted to start fires  
10 in residences?

11 A. Probably not.

12 Q. Is a randomly picked individual from the United States  
13 likely to have made up statements about calling over their  
14 non-Muslim friends to their house so that they could tie them  
15 up and execute them?

16 A. Probably not.

17 Q. But it's still your conclusion that a randomly picked  
18 individual from the United States is more dangerous than  
19 Mr. Alhaggagi?

20 A. Yes. Because if you look at a chart of rates and since  
21 it's nonzero, it's actually higher.

22 Q. Dr. Sageman, you're being paid here for your testimony  
23 today, are you not?

24 A. Absolutely not. I'm never paid for my testimony.

25 Q. I'm sorry. I misspoke. You're being paid in your



1 services as an expert; right?

2 A. No. I'm paid for my time.

3 Q. You're paid for your time?

4 A. Yes.

5 Q. You're getting paid as a result of being here today?

6 A. Absolutely.

7 Q. Okay. What's your hourly rate?

8 THE COURT: Well, I'm aware of it.

9 MR. HASIB: Okay. In that case, I have no further  
10 questions, Your Honor.

11 MR. GUGELMANN: Just briefly, Your Honor.

12 REDIRECT EXAMINATION

13 BY MR. GUGELMANN:

14 Q. There was a lot of discussion about what was in your draft  
15 report versus what was in your final report as it relates to  
16 the informant testimony of post-arrest conduct; is that right?

17 A. Yes.

18 Q. And you explained that it was in -- these allegations were  
19 discussed in your draft report. They were taken out at  
20 counsel's request, at our request. They're not in the final  
21 report.

22 A. That's correct.

23 Q. Do you recall discussing -- so we provided you the  
24 discovery as it related to those informants; correct?

25 A. Yes.

1 Q. And we asked you to discuss that with Mr. Alhaggagi and  
2 offer an opinion on it?

3 A. I don't think you asked me. That's what I do. You don't  
4 have to ask me.

5 Q. We then informed you that we had gotten the Government's  
6 statement to Probation and the issue of the informants was not  
7 raised?

8 A. That's correct.

9 Q. And asked you to take it out of the report?

10 A. Yes. I think we had a discussion on the phone about this.

11 Q. There was some discussion about the term "egging on." You  
12 said you thought Mr. Alhaggagi and the UC were egging on. The  
13 Court asked you a question about who was actually generating  
14 these ideas. Do you recall that?

15 A. Right.

16 Q. And your testimony, I think, was that you agreed with the  
17 Court that it was Mr. Alhaggagi who was generating at least the  
18 vast majority of these ideas?

19 A. Three out of the four.

20 Q. Three out of the four that the Court mentioned --

21 A. Yes.

22 Q. -- but there were other ideas that were brought up in the  
23 course of these discussions beyond the ones that the Court  
24 specifically mentioned?

25 A. Yes, and some were blacked out so I'm not going to mention

1     them in court; but starting fires, for instance.

2     **Q.**   For example.  Mr. Alhaggagi generated those ideas as well;  
3     right?

4     **A.**   What do you mean?  The starting fire was Mr. Alhaggagi.  
5     How to do it was the undercover.

6     **Q.**   So I'm just trying to get at your use of the term "egging  
7     on" and what that meant.  Did you see any instances where  
8     either the CHS or the undercover said, "Let's not do that"?

9     **A.**   No.

10    **Q.**   Did you see instances where the CHS or the undercover were  
11    enthusiastic about those various plans mentioned by  
12    Mr. Alhaggagi?

13    **A.**   Yeah.  When Mr. Alhaggagi talked to me, he said he was  
14    frankly surprised that they kept going along with him.  The  
15    more absurd ideas he had, the more they agreed with it and  
16    encouraged him, yeah.

17    **Q.**   And is that what you were referring to when you said that  
18    the two of them were egging each other on?

19    **A.**   That's correct.

20    **Q.**   You were also asked -- there was a discussion with counsel  
21    about what had been translated by the Government and what had  
22    been translated by the Defense.

23    **A.**   Correct.

24    **Q.**   And you said that Session 90, of which we saw the short  
25    excerpt in Government Exhibit 8, was translated in full by the

1 Defense at your request?

2 **A.** Not at my request, but I wanted to see it.

3 **THE COURT:** I'm not concerned who translated what.

4 **MR. GUGELMANN:** Understood.

5 The general -- I'd like to introduce a copy of Chat 90.

6 **THE COURT:** All right.

7 **MR. GUGELMANN:** I lost my stickers, but I think we're  
8 at Number 3.

9 **THE COURT:** Exhibit next in order admitted.

10 **MR. GUGELMANN:** Exhibit next in order.

11 (Hearing Exhibit 3 received in evidence)

12 **BY MR. GUGELMANN:**

13 **Q.** I just want to ask you about -- this is the chat that  
14 includes the bomb-making discussion that we talked about this  
15 morning.

16 **A.** Yes, on November 27th.

17 **Q.** And I just want to ask you about the general tenor of this  
18 whole discussion from your perspective.

19 **A.** It's filthy and obscene is probably how I can characterize  
20 it. It's about being very disgusting to women, people -- women  
21 that they add on to that site by just adding them and women,  
22 say, "How did I get here," and so on and they kind of start  
23 trolling the women who just appear. So the whole group Chat 90  
24 or 3078, as it is in the original, is pretty filthy and  
25 disgusting.

1 Q. And so was it significant to you to understand more of the  
2 context of the bomb chat that Chat 90 provided for you to  
3 render your opinions here?

4 A. Very much so.

5 MR. GUGELMANN: I don't have any further questions,  
6 Your Honor.

7 THE COURT: Okay. Thank you.  
8 Anything further?

9 MR. HASIB: Briefly, Your Honor.

10 RECROSS-EXAMINATION

11 BY MR. HASIB:

12 Q. You said a moment ago that you did not see any instances  
13 that the UC or the confidential source said "Let's not do  
14 that." Is that what you said?

15 A. In terms of attacks, but "Let's not cross borders,"  
16 "Let's not beat up some guy," that, he did, that, he certainly  
17 did, but it was all to enhance the attacks.

18 MR. HASIB: Thank you, Your Honor. Nothing further.

19 THE COURT: Thank you.  
20 Doctor, thank you so much.

21 THE WITNESS: Do you have any questions for me?

22 THE COURT: Sorry?

23 THE WITNESS: Do you have any questions for me?

24 THE COURT: Oh, I have no questions. Thank you.

25 THE WITNESS: All right. Thank you, then. Thank you,

1 Your Honor.

2 **THE COURT:** And thank you for being available to  
3 testify. I know that you do have a busy schedule and I  
4 appreciate it.

5 So now let's figure out a little bit where we are on this.

6 You're excused. You can step down now.

7 **THE WITNESS:** I'm just packing up, Your Honor.

8 **THE COURT:** I would definitely escape while you can  
9 because I may think of a question.

10 (Witness excused.)

11 **THE COURT:** So go ahead, Mr. Hasib.

12 **MR. HASIB:** Your Honor, we've discussed, Ms. McNamara  
13 and Mr. Gugelmann and I, and we are in the process of  
14 contacting the two informants through their counsel. It has  
15 been difficult thus far, frankly, to get in touch with them,  
16 but we think we found them. We think we've got -- we've got in  
17 contact with them, and we believe we can have them here by  
18 January 8th, and that's the date that we consulted with the  
19 court and seems to be agreeable to everybody.

20 **THE COURT:** All right. That's fine.

21 What about some of the other issues? I'm just wondering  
22 whether we can take care of them in the interim, the ones that  
23 I raised.

24 **MS. McNAMARA:** The terrorism enhancement?

25 **THE COURT:** Pardon me?

1           **MS. McNAMARA:** The terrorism enhancement, Your Honor,  
2 or --

3           **THE COURT:** The terrorism enhancement, the criminal  
4 history, whether a departure -- well, I think any insight you  
5 can give to the Court on why it's Level VI automatic and how  
6 does that fit with the framework of what a criminal history  
7 category is supposed to do and whether it can be the basis for  
8 a departure. That would be an interesting subject to address.

9           I'm also interested -- and maybe the Government has access  
10 to this information or maybe not -- in the number of cases that  
11 have been sentenced under this statute. The question in the  
12 Court's mind is how many of those defendants did something  
13 other than what the defendant pled guilty to.

14           I mean, clearly there is a similarity, I get it, that a  
15 defendant who is convicted of this statute committed a criminal  
16 act prohibited by the statute and in that regard, there's a  
17 similarity or identity, but that doesn't mean any of the  
18 details are the same.

19           And so that would be interesting to the extent there are  
20 any reported decisions or anything that the parties can direct  
21 the Court's attention to either by way of reported decisions or  
22 by way of submissions otherwise. I mean, I don't know how  
23 things are memorialized as a general rule, if the Government  
24 has greater access to that information.

25           So there it is. I mean, that would be helpful to the

1 Court.

2 **MR. HASIB:** I certainly can't answer that question now  
3 off the top of my head, and I also suspect that the answer may  
4 be difficult to find just because of the nature of these cases.  
5 Sometimes a lot of what's going on in the background is never  
6 discussed in a nonclassified setting. So there may be  
7 information out there that someone is having communications  
8 with ISIS directly and they end up being arrested for something  
9 like identity theft or some other seemingly benign offense.

10 **THE COURT:** But then there wouldn't be the 12-level  
11 enhancement.

12 **MR. HASIB:** Not necessarily. I mean, it depends on  
13 the circumstance of the arrest. I think -- let me make sure I  
14 understand Your Honor's question correctly.

15 **THE COURT:** Well, sure. I can address it again.

16 What I want to do is find out those people who have been  
17 convicted of this particular crime, the terrorist crime. I'm  
18 interested in, one, the sentences they received to the extent  
19 it's known; and, two, what, if it's also known, were the  
20 circumstances of that conviction or sentencing that resulted in  
21 whatever sentence the person received.

22 We know a couple of things. We know the statute under  
23 which a person is convicted and we know the sentence.  
24 Nothing's secret there. Now, as you point out, because of  
25 national security concerns, there could be additional



1 information that would justify, when brought to the Court's  
2 attention, would justify the particular sentence that the  
3 person received.

4 I don't know what light you can shed on it. It's  
5 peculiarly in the -- I mean, the Government knows. The  
6 Government knows. The Department of Justice knows.  
7 Terrorism -- I don't know how things are set up in the DOJ.  
8 There has to be a terrorist unit.

9 **MR. HASIB:** The National Security Division.

10 **THE COURT:** Yeah. They know the answer to that  
11 question. They either know immediately or they have access to  
12 that information. So to the extent you can disclose that, I  
13 would appreciate it. And you have the option of disclosing  
14 those matters under -- you can do so under seal. And you can  
15 also do so subject to a protective order if it's warranted  
16 under certain circumstances. Maybe not. But I'm giving you a  
17 couple of options of how to comply with the Court's request.

18 **MR. HASIB:** So the --

19 **THE COURT:** And I'm also saying it's not essential. I  
20 mean, you do what you do, but the Court's interested in it.

21 **MR. HASIB:** So the ask is cases in which the terrorism  
22 enhancement was applied --

23 **THE COURT:** Right.

24 **MR. HASIB:** -- where the circumstances may have been  
25 different from the conduct that was engaged in.

1           **THE COURT:** Different or similar.

2           **MR. HASIB:** Okay. Okay. Understood.

3           **THE COURT:** And I guess also, if the Government is  
4 aware of any cases in which the terrorism enhancement was not  
5 applied yet the facts of the case are the same here insofar as  
6 they reflected the defendant's providing access to known  
7 terrorists, access to Twitter, Facebook, social media accounts  
8 to known terrorists. So either way I'd like to know.

9           **MR. HASIB:** Whether the enhancement was applied or  
10 whether it was not applied?

11           **THE COURT:** Yeah. When it was applied, when it was  
12 not applied.

13           **MS. McNAMARA:** I can tell the Court that we've done a  
14 search. We can't find similar cases.

15           And just to put a couple of data points in front of the  
16 Court at this point, it's a very strange case. The Court  
17 started with that observation. I think we all agree.

18           I think it's particularly important to understand here  
19 that in terms of the granular facts, I imagine this is going to  
20 be unique because even with the opening of the ISIS-related  
21 accounts, Mr. Alhaggagi didn't know necessarily what they'd be  
22 used for. The Government's own brief at page 42 shows the  
23 entirety of the exchange between Mr. Alhaggagi and Muharib, the  
24 person he opened one set of accounts for.

25           And I can just say to the Court that there's nothing in

1 here from Mr. Alhaggagi's, you know, position where he's  
2 extolling the virtues of ISIS. What there is is, at the very  
3 end on page 42, four lines from the bottom, Muharib saying to  
4 Mr. Alhaggagi, "I think you read about the invasion that I  
5 want, brother." And, by the way, "invasion" here is PR, a  
6 propaganda invasion. It's not a physical invasion. I think  
7 the Government agrees with that.

8 Mr. Alhaggagi's response is, "No, I didn't read about it."

9 And then Muharib says, "Go to the group, brother, and  
10 read." And then, "Oh, dear. Add the biggest number of  
11 accounts, brother," says Muharib.

12 And Mr. Alhaggagi doesn't do anything after that. There's  
13 no opening of accounts afterwards.

14 So the record, I think, is Mr. Alhaggagi knows Muharib is  
15 an ISIS sympathizer. Muharib comes to him because another chat  
16 named Munasir says, "You're the person to help." And this all  
17 comes through an ISIS chat room.

18 But the actual mechanics of what happened here are simply  
19 Muharib saying, "Please, open these accounts." And  
20 Mr. Alhaggagi saying, "Yes." And Muharib saying, "Here's where  
21 to put them," and saying, "I need to have e-mail accounts in  
22 order to authenticate Twitter accounts." You can't open a  
23 Twitter account without having an e-mail.

24 That's what's at the heart of it. So to say that  
25 Mr. Alhaggagi opened accounts for ISIS, absolutely correct. He

1 did it at the request of an ISIS sympathizer, absolutely  
2 correct.

3 What is entirely unproven is that Mr. Alhaggagi knew what  
4 messages would be transmitted. I think it's fair to say he  
5 must have known they would be used for some sort of propaganda  
6 purpose, but precisely what we don't know.

7 And what -- or at least what he didn't know and what we  
8 know about what got said is really not exhortations to violence  
9 or exhortations to commit terrorist acts. It's much more in  
10 the nature of "Here's what happened on the battlefield today"  
11 or "People have been talking about our positions in the  
12 battlefield. Don't do it." It's not the kind of thing that I  
13 think the Court might fear being put out here.

14 And one other thing I would say to the Court is Muharib,  
15 the person who is asking for this, is a 17-year-old hacker  
16 himself. We have in discovery that he had thousands of these  
17 accounts. So Mr. Alhaggagi's contribution is about eight  
18 accounts overall. And when Muharib says, "Read about my  
19 invasion, my plans about these accounts," we have no evidence  
20 Mr. Alhaggagi did so and there is evidence he did not open any  
21 further accounts.

22 So the offense conduct here, which is what makes this case  
23 so strange, is very limited in time and limited in scope but,  
24 yet, the entirety of today has been taken up with everything  
25 that he said before all of this.

1 I don't think there is a case out there of the like. So  
2 while I think the Court's asking for something entirely  
3 reasonable and something we would very much like to find,  
4 unless there's some trove in the Government's basement, I'm not  
5 optimistic we'll find much.

6 **THE COURT:** Well, whatever we find, we find. I think,  
7 though, it is the Government's position that this isn't -- that  
8 all this stuff isn't just speech, that he did take certain  
9 actions. So I think rather than getting into a debate now  
10 about what the evidence shows or what it doesn't show, I mean,  
11 I'm quite sure it's the Government's position that certain  
12 actions were taken.

13 **MR. HASIB:** It's absolutely the Government's position  
14 that certain actions were taken. And, in fact, it's the  
15 Government's theory, and had this gone to trial we would have  
16 argued this, that this is really all one course of conduct;  
17 that it starts in July of 2016 with the defendant getting on an  
18 ISIS website and talking about weapons and can people get him  
19 weapons, and it quickly snowballs from there into him talking  
20 with the FBI online source about what he wants the weapons for  
21 and the attacks that he's going to engage in. It then  
22 obviously snowballs into the meetings with the undercover and  
23 the gruesome, gruesome details that he describes about what he  
24 wants to do in the Bay Area.

25 Then -- and I understand that we have a very different

1 view of why the defendant broke off contact with the  
2 undercover, but it's the Government's position that the  
3 defendant smelled a rat. He had been savvy enough to talk  
4 about people being undercover from the very earliest moments  
5 that he was talking with the confidential source. So this was  
6 something that was very clearly on his mind and he was worrying  
7 about it.

8 **THE COURT:** Well, I think it would be their point  
9 that -- the question is really to divine purpose and to that  
10 you look at the circumstantial evidence, and what they are  
11 saying is that they have a perfectly rational explanation of  
12 why he canceled --

13 **MR. HASIB:** Right.

14 **THE COURT:** -- his relationship with him consistent  
15 with his view that he never wanted to do anything, didn't want  
16 to take the additional steps.

17 Now, on the other side of the ledger is the fact that he  
18 did take a number of steps, including meetings, including  
19 drive-bys, including things like applying as a police officer  
20 or as a locksmith, areas that are fraught with uncomfortable  
21 implications given the Government's view of his mind-set, let's  
22 say that.

23 Because these are -- we have his mind-set. I don't think  
24 that's in dispute. We have the things he said. That's not in  
25 dispute. The question is: Would he carry out any of these

1 things?

2 And then the Government says, yes, there's a distinct  
3 possibility he would, and they point to things that are of some  
4 concern in support of their statement that he would carry out  
5 these things.

6 Anyway, this is going to be some argument between the  
7 parties and we don't need to have it today. It's in the record  
8 and testimony has been taken.

9 So do I understand -- we can do a couple of things. It  
10 being this week, I want to give the parties the opportunity to  
11 brief the subject or submit anything in writing that they wish,  
12 and I'm trying to figure out since it's a good idea to have  
13 some dates in mind.

14 Well, my question is: When do you think you can get  
15 something in writing on the various issues that I raised? Not  
16 tonight.

17 **MR. HASIB:** No, no, no. I was looking to see what  
18 date it was actually because I know there's holidays coming up  
19 and whatnot. Today is the 17th.

20 **MS. McNAMARA:** Yes.

21 And may I ask? Your Honor, the Court's clear it wants to  
22 have from the Government if there's any case that could shed  
23 light on a similar sort of fact pattern. From the Defense,  
24 does the Government want additional briefing on the application  
25 here of the terrorism enhancement?

1           **THE COURT:** Yes, especially the second part which  
2 talks about retaliation --

3           **MS. McNAMARA:** Retaliation, yes. Okay.

4           **THE COURT:** -- because I don't think that was fully  
5 developed in the briefs.

6           **MS. McNAMARA:** Very good.

7           **THE COURT:** So I'd like that and anything else you  
8 want. I think the Government should file first.

9           **MS. McNAMARA:** Very good.

10          **MR. HASIB:** Okay.

11          **THE COURT:** I mean, you can do simultaneous but that  
12 just doubles the work. Why doesn't the Government file first;  
13 then you respond to it and anything else; and then the  
14 Government, if they have something else they want to advance,  
15 they can. And it's up to you how you want to do it.

16          So I turn to you, Mr. Hasib. When do you want?

17          **MR. HASIB:** For dates? You know, it may not have come  
18 across earlier today, but the parties have actually been in  
19 very close communication and have enjoyed a good relationship  
20 throughout this process.

21          **THE COURT:** No, it does.

22          **MR. HASIB:** We'll get together and pick upcoming  
23 dates.

24          **THE COURT:** Why don't you just agree amongst  
25 yourselves.



1           **MR. HASIB:** Yeah.

2           **MS. McNAMARA:** Thank you, Your Honor.

3           **MR. HASIB:** Okay.

4           **THE COURT:** You don't have to do it in front of me,  
5 and just let me know what we're doing.

6           **MR. HASIB:** Yeah.

7           **MS. McNAMARA:** Very good.

8           **MR. HASIB:** Okay.

9           **THE COURT:** As far as I'm concerned, we'll continue  
10 the sentencing hearing until January 8th.

11           **MR. HASIB:** January 8th.

12           Okay. Thank you, Your Honor.

13           **MR. GUGELMANN:** Thank you, Your Honor.

14           **MS. McNAMARA:** Thank you for the Court's time.

15                   (Proceedings adjourned at 4:25 p.m.)

16                               ---oOo---

CERTIFICATE OF REPORTER

I certify that the foregoing is a correct transcript  
from the record of proceedings in the above-entitled matter.

DATE: Thursday, December 20, 2018

A handwritten signature in black ink, appearing to read "Jo Ann Bryce", is written over a horizontal line.

Jo Ann Bryce, CSR No. 3321, RMR, CRR, FCRR  
U.S. Court Reporter